

As Passed by the House

**125th General Assembly
Regular Session
2003-2004**

Am. Sub. H. B. No. 95

Representative Calvert

A B I L L

To amend sections 9.01, 9.83, 101.34, 101.72, 101.82, 1
102.02, 109.57, 109.572, 117.45, 121.04, 121.08, 2
121.084, 121.62, 122.011, 122.04, 122.08, 122.25, 3
122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 4
125.05, 125.06, 125.07, 125.15, 125.22, 125.91, 5
125.92, 125.93, 125.95, 125.96, 125.98, 126.03, 6
127.16, 131.02, 131.23, 131.35, 135.22, 147.01, 7
147.37, 149.011, 149.30, 149.33, 149.331, 149.332, 8
149.333, 149.34, 149.35, 153.65, 164.27, 173.26, 9
175.03, 175.21, 175.22, 183.02, 307.86, 307.87, 10
307.93, 311.17, 323.01, 325.31, 329.03, 329.04, 11
329.051, 340.021, 340.03, 341.05, 341.25, 504.03, 12
504.04, 507.09, 715.013, 718.01, 718.02, 718.05, 13
718.11, 753.22, 901.17, 901.21, 921.151, 921.53, 14
927.69, 1306.20, 1309.109, 1321.21, 1333.99, 15
1501.04, 1503.05, 1513.05, 1519.05, 1521.06, 16
1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 17
1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 18
1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 19
1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 20
1533.71, 1533.82, 1551.11, 1551.12, 1551.15, 21
1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 22
1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 23
1555.17, 1711.09, 1711.11, 2101.16, 2117.06, 24
2117.25, 2151.011, 2151.352, 2151.3529, 2151.3530, 25

2151.83, 2151.84, 2301.58, 2305.234, 2329.07,	26
2329.66, 2715.041, 2715.045, 2716.13, 2743.02,	27
2921.13, 2929.38, 2935.36, 2949.091, 3111.04,	28
3111.72, 3119.01, 3123.952, 3301.52, 3301.53,	29
3301.54, 3301.55, 3301.57, 3301.58, 3311.24,	30
3311.52, 3313.41, 3313.48, 3313.533, 3313.62,	31
3313.647, 3313.90, 3313.979, 3313.981, 3314.02,	32
3314.03, 3314.041, 3314.07, 3314.08, 3316.08,	33
3317.01, 3317.012, 3317.013, 3317.02, 3317.022,	34
3317.023, 3317.024, 3317.029, 3317.0217, 3317.03,	35
3317.032, 3317.05, 3317.06, 3317.064, 3317.07,	36
3317.081, 3317.09, 3317.10, 3317.16, 3318.01,	37
3318.03, 3318.033, 3318.37, 3318.41, 3319.01,	38
3319.02, 3319.03, 3319.07, 3319.19, 3319.22,	39
3319.227, 3319.302, 3319.33, 3319.36, 3323.12,	40
3323.16, 3327.01, 3327.011, 3329.06, 3329.08,	41
3332.04, 3333.12, 3361.01, 3365.04, 3377.01,	42
3377.06, 3383.01, 3383.07, 3501.18, 3501.30,	43
3503.10, 3505.08, 3517.092, 3701.021, 3701.022,	44
3701.024, 3701.141, 3701.145, 3701.46, 3702.31,	45
3702.68, 3702.74, 3705.01, 3705.02, 3705.06,	46
3705.07, 3705.08, 3705.16, 3705.17, 3705.22,	47
3705.23, 3705.24, 3705.26, 3705.28, 3709.09,	48
3710.05, 3711.021, 3717.42, 3721.02, 3721.19,	49
3727.17, 3733.43, 3733.45, 3734.02, 3734.05,	50
3734.12, 3734.123, 3734.124, 3734.18, 3734.28,	51
3734.42, 3734.44, 3734.46, 3734.57, 3737.01,	52
3737.02, 3737.21, 3737.22, 3737.71, 3737.81,	53
3737.88, 3737.881, 3737.882, 3737.883, 3737.89,	54
3737.91, 3737.92, 3737.98, 3741.14, 3743.57,	55
3743.75, 3745.04, 3745.11, 3745.14, 3745.40,	56
3746.02, 3746.13, 3748.07, 3748.13, 3770.02,	57
3770.03, 3770.05, 3770.06, 3770.07, 3770.08,	58

3770.10, 3770.99, 3773.33, 3773.43, 3781.19,	59
3901.86, 4104.01, 4104.02, 4104.04, 4104.06,	60
4104.07, 4104.08, 4104.15, 4104.18, 4104.19,	61
4104.20, 4104.41, 4104.44, 4104.45, 4104.46,	62
4105.17, 4112.15, 4115.10, 4117.02, 4117.14,	63
4123.27, 4123.41, 4141.04, 4141.09, 4301.03,	64
4503.234, 4511.191, 4511.75, 4561.18, 4561.21,	65
4707.071, 4707.072, 4707.10, 4709.12, 4717.01,	66
4717.07, 4717.09, 4719.01, 4723.06, 4723.08,	67
4723.082, 4723.17, 4725.01, 4725.02, 4725.03,	68
4725.04, 4725.05, 4725.06, 4725.07, 4725.08,	69
4725.09, 4725.10, 4725.11, 4725.12, 4725.13,	70
4725.15, 4725.16, 4725.17, 4725.171, 4725.18,	71
4725.19, 4725.20, 4725.21, 4725.22, 4725.23,	72
4725.24, 4725.26, 4725.27, 4725.28, 4725.29,	73
4725.31, 4725.33, 4725.34, 4725.99, 4731.65,	74
4731.71, 4734.15, 4734.99, 4736.12, 4743.05,	75
4747.05, 4747.06, 4747.07, 4747.10, 4751.06,	76
4751.07, 4759.08, 4771.22, 4779.08, 4779.09,	77
4779.10, 4779.11, 4779.12, 4779.15, 4779.16,	78
4779.17, 4779.18, 4779.20, 4779.21, 4779.22,	79
4779.23, 4779.24, 4779.25, 4779.26, 4779.27,	80
4779.30, 4779.32, 4779.33, 4903.24, 4905.79,	81
4905.91, 4919.79, 4931.45, 4931.47, 4931.48,	82
4973.17, 5101.11, 5101.14, 5101.141, 5101.142,	83
5101.144, 5101.145, 5101.146, 5101.16, 5101.18,	84
5101.181, 5101.36, 5101.58, 5101.59, 5101.75,	85
5101.80, 5101.83, 5101.97, 5103.031, 5103.033,	86
5103.034, 5103.036, 5103.037, 5103.038, 5103.0312,	87
5103.0313, 5103.0314, 5103.0315, 5103.0316,	88
5103.154, 5104.01, 5104.011, 5104.02, 5104.04,	89
5104.30, 5104.32, 5107.02, 5107.30, 5107.37,	90
5107.40, 5107.60, 5108.01, 5108.03, 5108.06,	91

5108.07, 5108.09, 5108.10, 5111.016, 5111.019,	92
5111.0112, 5111.02, 5111.022, 5111.03, 5111.06,	93
5111.111, 5111.17, 5111.171, 5111.20, 5111.21,	94
5111.22, 5111.23, 5111.24, 5111.25, 5111.251,	95
5111.252, 5111.262, 5111.29, 5111.30, 5111.31,	96
5111.34, 5111.81, 5111.85, 5111.87, 5111.871,	97
5111.872, 5111.873, 5111.94, 5112.03, 5112.08,	98
5112.17, 5112.31, 5112.99, 5115.01, 5115.02,	99
5115.03, 5115.04, 5115.05, 5115.07, 5115.10,	100
5115.11, 5115.13, 5115.15, 5115.20, 5119.61,	101
5119.611, 5123.01, 5123.051, 5123.19, 5123.60,	102
5123.801, 5126.01, 5126.042, 5126.12, 5139.36,	103
5139.41, 5139.87, 5153.163, 5153.60, 5153.69,	104
5153.72, 5153.78, 5502.13, 5513.01, 5515.07,	105
5705.39, 5705.41, 5709.62, 5709.63, 5709.632,	106
5709.64, 5713.10, 5717.03, 5727.111, 5727.30,	107
5727.32, 5727.33, 5733.04, 5733.05, 5733.056,	108
5733.09, 5733.121, 5733.98, 5735.05, 5735.23,	109
5735.26, 5735.291, 5735.30, 5739.01, 5739.011,	110
5739.02, 5739.12, 5741.02, 5743.05, 5745.01,	111
5745.02, 5745.04, 5747.12, 5903.12, 6109.21, and	112
6117.02; to amend, for the purpose of adopting new	113
section numbers as indicated in parentheses,	114
sections 3301.33 (3301.40), 3701.145 (3701.0210),	115
4104.46 (4104.48), 5108.06 (5108.04), 5108.07	116
(5108.05), 5111.08 (5111.071), 5111.16 (5111.08),	117
5111.252 (5123.199), 5115.02 (5115.04), 5115.04	118
(5115.02), 5115.07 (5115.06), 5115.13 (5115.07),	119
and 5115.15 (5115.23); to amend Section 3 of Am.	120
Sub. S.B. 272 of the 123rd General Assembly, as	121
subsequently amended; to amend for the purpose of	122
changing the number of Section 3 of Am. Sub. S.B.	123
272 of the 123rd General Assembly, as subsequently	124

amended, to section 3318.364 of the Revised Code; 125
to enact new sections 125.831, 718.03, 3301.31, 126
3301.33, 3313.481, 3317.11, 3318.052, 4104.42, 127
4104.43, 4104.46, 5108.06, 5108.07, 5111.16, 128
5111.173, and 5115.13 and sections 9.75, 106.01, 129
106.02, 106.03, 106.04, 106.05, 107.12, 107.31, 130
107.32, 107.33, 122.90, 123.152, 123.153, 125.073, 131
125.832, 125.833, 125.834, 153.691, 173.08, 132
511.181, 718.021, 718.031, 718.051, 718.121, 133
927.701, 1306.25, 1306.26, 1306.27, 1306.28, 134
1306.29, 2113.041, 2117.061, 3301.20, 3301.34, 135
3301.35, 3301.36, 3301.37, 3314.083, 3317.034, 136
3318.024, 3318.34, 3333.16, 3501.011, 3701.029, 137
3701.61, 3702.63, 3705.201, 3741.15, 3745.15, 138
3770.061, 3770.073, 3770.21, 3770.22, 3770.23, 139
3770.24, 3770.25, 3770.26, 3770.27, 3770.28, 140
3770.29, 3770.30, 4104.47, 4115.21, 4707.24, 141
4723.063, 5101.12, 5101.1410, 5101.214, 5103.155, 142
5108.11, 5108.12, 5111.0113, 5111.025, 5111.083, 143
5111.172, 5111.174, 5111.175, 5111.206, 5111.222, 144
5111.65, 5111.66, 5111.661, 5111.67, 5111.671, 145
5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 146
5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 147
5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 148
5111.689, 5111.6810, 5111.911, 5111.912, 5111.913, 149
5111.95, 5111.96, 5111.97, 5115.12, 5115.14, 150
5115.22, 5123.196, 5123.197, 5123.198, 5123.1910, 151
5123.38, 5123.851, 5515.08, 5717.011, 5733.55, 152
5733.56, 5733.57, 5735.053, 5743.051, 5745.042, 153
5745.044, and 5747.026; and to repeal sections 154
122.12, 125.831, 125.931, 125.932, 125.933, 155
125.934, 125.935, 131.38, 173.45, 173.46, 173.47, 156
173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 157

173.54, 173.55, 173.56, 173.57, 173.58, 173.59,	158
504.21, 718.03, 1333.96, 1533.06, 1533.39,	159
1553.01, 1553.02, 1553.03, 1553.04, 1553.05,	160
1553.06, 1553.07, 1553.08, 1553.09, 1553.10,	161
1553.99, 2305.26, 3301.0719, 3301.078, 3301.0724,	162
3301.31, 3301.581, 3302.041, 3313.481, 3313.482,	163
3313.82, 3313.83, 3313.99, 3317.11, 3318.052,	164
3318.35, 3318.351, 3319.06, 3319.34, 3701.142,	165
3701.144, 4104.42, 4104.43, 4141.044, 4141.045,	166
4725.40, 4725.41, 4725.42, 4725.43, 4725.44,	167
4725.45, 4725.46, 4725.47, 4725.48, 4725.49,	168
4725.50, 4725.51, 4725.52, 4725.53, 4725.531,	169
4725.54, 4725.55, 4725.56, 4725.57, 4725.58,	170
4725.59, 4779.05, 4779.06, 4779.07, 5101.251,	171
5108.05, 5111.017, 5111.173, 5115.011, 5115.012,	172
5115.06, 5115.061, 5115.13, 5727.39, and 5727.44	173
of the Revised Code; to amend Section 63.37 of Am.	174
Sub. H.B. 94 of the 124th General Assembly, as	175
subsequently amended; to amend Section 7 of Sub.	176
H.B. 196 of the 124th General Assembly; to amend	177
Section 5 of Am. Sub. H.B. 524 of the 124th	178
General Assembly; to amend Sections 18.03 and	179
18.04 of H.B. 675 of the 124th General Assembly;	180
to amend Sections 10 and 14 of Am. Sub. S.B. 242	181
of the 124th General Assembly; to amend Section 3	182
of Am. Sub. H.B. 215 of the 122nd General	183
Assembly, as subsequently amended; to amend	184
Section 3 of Am. Sub. H.B. 621 of the 122nd	185
General Assembly, as subsequently amended; to	186
amend Section 153 of Am. Sub. H.B. 117 of the	187
121st General Assembly, as subsequently amended;	188
to amend Section 27 of Sub H.B. 670 of the 121st	189
General Assembly, as subsequently amended; to	190

amend Section 5 of Am. Sub. S.B. 50 of the 121st 191
General Assembly, as subsequently amended; to 192
repeal Section 129 of Am. Sub. H.B. 283 of the 193
123rd General Assembly, as subsequently amended; 194
to repeal Section 3 of Sub. H.B. 403 of the 123rd 195
General Assembly; and to repeal Section 11 of Am. 196
Sub. S.B. 50 of the 121st General Assembly, as 197
subsequently amended; to levy taxes and provide 198
for implementation of those levies, to make 199
operating appropriations for the biennium 200
beginning July 1, 2003, and ending June 30, 2005, 201
and to provide authorization and conditions for 202
the operation of state programs; to amend the 203
version of section 921.22 of the Revised Code that 204
is scheduled to take effect July 1, 2004, to 205
continue the provisions of this act on and after 206
that effective date; to amend the version of 207
section 2305.234 of the Revised Code that is 208
scheduled to take effect January 1, 2004, to 209
continue the provisions of this act on and after 210
that effective date; to amend the version of 211
section 3332.04 of the Revised Code that is 212
scheduled to take effect July 1, 2003; to amend 213
the version of section 3734.44 of the Revised Code 214
that is scheduled to take effect January 1, 2004, 215
to continue the provisions of this act on and 216
after that effective date; to amend the versions 217
of sections 4503.234, 4511.191, and 4511.75 of the 218
Revised Code that are scheduled to take effect 219
January 1, 2004; and to terminate certain 220
provisions of this act on December 31, 2013, by 221
repealing section 4723.063 of the Revised Code on 222
that date. 223

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

Section 1. That sections 9.01, 9.83, 101.34, 101.72, 101.82, 224
102.02, 109.57, 109.572, 117.45, 121.04, 121.08, 121.084, 121.62, 225
122.011, 122.04, 122.08, 122.25, 122.651, 122.658, 122.87, 122.88, 226
123.01, 124.03, 125.05, 125.06, 125.07, 125.15, 125.22, 125.91, 227
125.92, 125.93, 125.95, 125.96, 125.98, 126.03, 127.16, 131.02, 228
131.23, 131.35, 135.22, 147.01, 147.37, 149.011, 149.30, 149.33, 229
149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.27, 173.26, 230
175.03, 175.21, 175.22, 183.02, 307.86, 307.87, 307.93, 311.17, 231
323.01, 325.31, 329.03, 329.04, 329.051, 340.021, 340.03, 341.05, 232
341.25, 504.03, 504.04, 507.09, 715.013, 718.01, 718.02, 718.05, 233
718.11, 753.22, 901.17, 901.21, 921.151, 927.53, 927.69, 1306.20, 234
1309.109, 1321.21, 1333.99, 1501.04, 1503.05, 1513.05, 1519.05, 235
1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 236
1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 237
1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 238
1533.71, 1533.82, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 239
1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 240
1555.08, 1555.17, 1711.09, 1711.11, 2101.16, 2117.06, 2117.25, 241
2151.011, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 242
2301.58, 2305.234, 2329.07, 2329.66, 2715.041, 2715.045, 2716.13, 243
2743.02, 2921.13, 2929.38, 2935.36, 2949.091, 3111.04, 3111.72, 244
3119.01, 3123.952, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 245
3301.58, 3311.24, 3311.52, 3313.41, 3313.48, 3313.533, 3313.62, 246
3313.647, 3313.90, 3313.979, 3313.981, 3314.02, 3314.03, 3314.041, 247
3314.07, 3314.08, 3316.08, 3317.01, 3317.012, 3317.013, 3317.02, 248
3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 249
3317.032, 3317.05, 3317.064, 3317.07, 3317.081, 3317.09, 3317.10, 250
3317.16, 3318.01, 3318.03, 3318.033, 3318.37, 3318.41, 3319.01, 251
3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.227, 3319.302, 252

3319.33, 3319.36, 3323.12, 3323.16, 3327.01, 3327.011, 3329.06,	253
3329.08, 3332.04, 3333.12, 3361.01, 3365.04, 3377.01, 3377.06,	254
3383.01, 3383.07, 3501.18, 3501.30, 3503.10, 3505.08, 3517.092,	255
3701.021, 3701.022, 3701.024, 3701.141, 3701.145, 3701.46,	256
3702.31, 3702.68, 3702.74, 3705.01, 3705.02, 3705.06, 3705.07,	257
3705.08, 3705.16, 3705.17, 3705.22, 3705.23, 3705.24, 3705.26,	258
3705.28, 3709.09, 3710.05, 3711.021, 3717.42, 3721.02, 3721.19,	259
3727.17, 3733.43, 3733.45, 3734.02, 3734.05, 3734.12, 3734.123,	260
3734.124, 3734.18, 3734.28, 3734.42, 3734.44, 3734.46, 3734.57,	261
3737.01, 3737.02, 3737.21, 3737.22, 3737.71, 3737.81, 3737.88,	262
3737.881, 3737.882, 3737.883, 3737.89, 3737.91, 3737.92, 3737.98,	263
3741.14, 3743.57, 3743.75, 3745.04, 3745.11, 3745.14, 3745.40,	264
3746.02, 3746.13, 3748.07, 3748.13, 3770.02, 3770.03, 3770.05,	265
3770.06, 3770.07, 3770.08, 3770.10, 3770.99, 3773.33, 3773.43,	266
3781.19, 3901.86, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07,	267
4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44,	268
4104.45, 4104.46, 4105.17, 4112.15, 4115.10, 4117.02, 4117.14,	269
4123.27, 4123.41, 4141.04, 4141.09, 4301.03, 4503.234, 4511.191,	270
4511.75, 4561.18, 4561.21, 4707.071, 4707.072, 4707.10, 4709.12,	271
4717.01, 4717.07, 4717.09, 4719.01, 4723.06, 4723.08, 4723.082,	272
4723.17, 4725.01, 4725.02, 4725.03, 4725.04, 4725.05, 4725.06,	273
4725.07, 4725.08, 4725.09, 4725.10, 4725.11, 4725.12, 4725.13,	274
4725.15, 4725.16, 4725.17, 4725.171, 4725.18, 4725.19, 4725.20,	275
4725.21, 4725.22, 4725.23, 4725.24, 4725.26, 4725.27, 4725.28,	276
4725.29, 4725.31, 4725.33, 4725.34, 4725.99, 4731.65, 4731.71,	277
4734.15, 4734.99, 4736.12, 4743.05, 4747.05, 4747.06, 4747.07,	278
4747.10, 4751.06, 4751.07, 4759.08, 4771.22, 4779.08, 4779.09,	279
4779.10, 4779.11, 4779.12, 4779.15, 4779.16, 4779.17, 4779.18,	280
4779.20, 4779.21, 4779.22, 4779.23, 4779.24, 4779.25, 4779.26,	281
4779.27, 4779.30, 4779.32, 4779.33, 4903.24, 4905.79, 4905.91,	282
4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 5101.11, 5101.14,	283
5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16,	284
5101.18, 5101.181, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80,	285

5101.83, 5101.97, 5103.031, 5103.033, 5103.034, 5103.036, 286
5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 287
5103.0316, 5103.154, 5104.01, 5104.011, 5104.02, 5104.04, 5104.30, 288
5104.32, 5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 289
5108.03, 5108.06, 5108.07, 5108.09, 5108.10, 5111.016, 5111.019, 290
5111.0112, 5111.02, 5111.022, 5111.03, 5111.06, 5111.111, 5111.17, 291
5111.171, 5111.20, 5111.21, 5111.22, 5111.23, 5111.24, 5111.25, 292
5111.251, 5111.252, 5111.262, 5111.28, 5111.29, 5111.30, 5111.31, 293
5111.34, 5111.81, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 294
5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 295
5115.02, 5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 296
5115.13, 5115.15, 5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 297
5123.19, 5123.60, 5123.801, 5126.01, 5126.042, 5126.12, 5139.36, 298
5139.41, 5139.87, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 299
5502.13, 5513.01, 5515.07, 5705.39, 5705.41, 5709.62, 5709.63, 300
5709.632, 5709.64, 5713.10, 5717.03, 5727.111, 5727.30, 5727.32, 301
5727.33, 5733.04, 5733.05, 5733.056, 5733.09, 5733.121, 5733.98, 302
5735.05, 5735.23, 5735.26, 5735.291, 5735.30, 5739.01, 5739.011, 303
5739.02, 5739.12, 5741.02, 5743.05, 5745.01, 5745.02, 5745.04, 304
5747.12, 5903.12, 6109.21, and 6117.02 be amended; that sections 305
3301.33 (3301.40), 3701.145 (3701.0210), 4104.46 (4104.48), 306
5108.06 (5108.04), 5108.07 (5108.05), 5111.08 (5111.071), 5111.16 307
(5111.08), 5111.252 (5123.199), 5115.02 (5115.04), 5115.04 308
(5115.02), 5115.07 (5115.06), 5115.13 (5115.07), and 5115.15 309
(5115.23) be amended for the purpose of adopting new section 310
numbers as indicated in parentheses; that Section 3 of Am. Sub. 311
S.B. 272 of the 123rd General Assembly, as amended by Am. Sub. 312
H.B. 768 of the 123rd General Assembly, be amended and renumbered 313
as section 3318.364; and that new sections 125.831, 718.03, 314
3301.31, 3301.33, 3313.481, 3317.11, 3318.052, 4104.42, 4104.43, 315
4104.46, 5108.06, 5108.07, 5111.16, 5111.173, and 5115.13 and 316
sections 9.75, 106.01, 106.02, 106.03, 106.04, 106.05, 107.12, 317
107.31, 107.32, 107.33, 122.90, 123.152, 123.153, 125.073, 318

125.832, 125.833, 125.834, 153.691, 173.08, 511.181, 718.021, 319
718.031, 718.051, 718.121, 927.701, 1306.25, 1306.26, 1306.27, 320
1306.28, 1306.29, 2113.041, 2117.061, 3301.20, 3301.34, 3301.35, 321
3301.36, 3301.37, 3314.083, 3317.034, 3318.024, 3318.34, 3333.16, 322
3501.011, 3701.029, 3701.61, 3702.63, 3705.201, 3741.15, 3745.15, 323
3770.061, 3770.073, 3770.21, 3770.22, 3770.23, 3770.24, 3770.25, 324
3770.26, 3770.27, 3770.28, 3770.29, 3770.30, 4104.47, 4115.21, 325
4707.24, 4723.063, 5101.12, 5101.1410, 5101.214, 5103.155, 326
5108.11, 5108.12, 5111.0113, 5111.025, 5111.083, 5111.172, 327
5111.174, 5111.175, 5111.206, 5111.222, 5111.65, 5111.66, 328
5111.661, 5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 329
5111.675, 5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 330
5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 331
5111.689, 5111.6810, 5111.911, 5111.912, 5111.913, 5111.95, 332
5111.96, 5111.97, 5115.12, 5115.14, 5115.22, 5123.196, 5123.197, 333
5123.198, 5123.1910, 5123.38, 5123.851, 5515.08, 5717.011, 334
5733.55, 5733.56, 5733.57, 5735.053, 5743.051, 5745.042, 5745.044, 335
and 5747.026 of the Revised Code be enacted to read as follows: 336

Sec. 9.01. When any officer, office, court, commission, 337
board, institution, department, agent, or employee of the state, 338
~~or~~ of a county, or of any other political subdivision, who is 339
charged with the duty or authorized or required by law to record, 340
preserve, keep, maintain, or file any record, document, plat, 341
court file, paper, or instrument in writing, or to make or furnish 342
copies of any ~~thereof~~ of them, deems it necessary or advisable, 343
when recording ~~any such document, plat, court file, paper, or~~ 344
~~instrument in writing~~, or when making a copy or reproduction of 345
any ~~thereof~~ of them or of any such record, for the purpose of 346
recording or copying, preserving, and protecting ~~the same~~ them, 347
reducing space required for storage, or any similar purpose, to do 348
so by means of any photostatic, photographic, miniature 349
photographic, film, microfilm, or microphotographic process, or 350

perforated tape, magnetic tape, other magnetic means, electronic 351
data processing, machine readable means, or graphic or video 352
display, or any combination ~~thereof~~ of those processes, means, or 353
displays, which correctly and accurately copies, records, or 354
reproduces, or provides a medium of copying, recording, or 355
reproducing, the original record, document, plat, court file, 356
paper, or instrument in writing, such use of any ~~such photographic~~ 357
~~or electromagnetic~~ of those processes, means, or displays for any 358
such purpose, is hereby authorized. Any such records, copies, or 359
reproductions may be made in duplicate, and ~~such~~ the duplicates 360
shall be stored in different buildings. The film or paper used for 361
~~this~~ a process shall comply with the minimum standards of quality 362
approved for permanent photographic records by the national bureau 363
of standards. All such records, copies, or reproductions shall 364
carry a certificate of authenticity and completeness, on a form 365
specified by the director of administrative services through the 366
state records ~~administrator~~ program. 367

Any such officer, office, court, commission, board, 368
institution, department, agent, or employee of the state, of a 369
county, or of any other political subdivision may purchase or rent 370
required equipment for any such photographic process and may enter 371
into contracts with private concerns or other governmental 372
agencies for the development of film and the making of 373
reproductions ~~thereof~~ of film as a part of any such photographic 374
process. When so recorded, or copied or reproduced to reduce space 375
required for storage or filing of such records, ~~said~~ such 376
photographs, microphotographs, microfilms, perforated tape, 377
magnetic tape, other magnetic means, electronic data processing, 378
machine readable means, graphic or video display, or ~~any~~ 379
combination ~~thereof~~ of these processes, means, or displays, or 380
films, or prints made therefrom, when properly identified by the 381
officer by whom or under whose supervision ~~the same~~ they were 382
made, or who has ~~the~~ their custody ~~thereof~~, have the same effect 383

at law as the original record or of a record made by any other 384
legally authorized means, and may be offered in like manner and 385
shall be received in evidence in any court where ~~such~~ the original 386
record, or record made by other legally authorized means, could 387
have been so introduced and received. Certified or authenticated 388
copies or prints of such photographs, microphotographs, films, 389
microfilms, perforated tape, magnetic tape, other magnetic means, 390
electronic data processing, machine readable means, graphic or 391
video display, or ~~any~~ combination ~~thereof~~ of these processes, 392
means, or displays, shall be admitted in evidence equally with the 393
original ~~photographs, microphotographs, films, or microfilms.~~ 394

Such photographs, microphotographs, microfilms, or films 395
shall be placed and kept in conveniently accessible, fireproof, 396
and insulated files, cabinets, or containers, and provisions shall 397
be made for preserving, safekeeping, using, examining, exhibiting, 398
projecting, and enlarging ~~the same~~ them whenever requested, during 399
office hours. 400

All persons utilizing the methods described in this section 401
for keeping records and information shall keep and make readily 402
available to the public the machines and equipment necessary to 403
reproduce the records and information in a readable form. 404

Sec. 9.75. (A) As used in this section, "dangerous drug" has 405
the same meaning as in section 4729.01 of the Revised Code. The 406
advisory council shall elect a chairperson from among its members. 407

(B) If a state agency seeks to enter into or administer an 408
agreement or cooperative arrangement to create or join a 409
multiple-state prescription drug purchasing program to negotiate 410
discounts for dangerous drugs and intends to contract with a 411
person to administer the multiple-state prescription drug 412
purchasing program, an advisory council consisting of the 413
following members shall be appointed to review the proposals 414

submitted by persons seeking the contract and to select the person 415
who is to be awarded the contract: 416

(1) The Director of Job and Family Services; 417

(2) A member of the house of representatives who is a member 418
of the majority party and a member who is a member of the minority 419
party, appointed by the speaker of the house of representatives; 420

(3) A member of the senate who is a member of the majority 421
party and a member who is a member of the minority party, 422
appointed by the president of the senate; 423

(4) A representative of patient advocates, appointed by the 424
speaker of the house of representatives; 425

(5) A representative of patient advocates, appointed by the 426
president of the senate; 427

(6) A representative of the Ohio state medical association, 428
appointed by that association's executive director; 429

(7) A representative of large businesses, appointed by the 430
president of the Ohio chamber of commerce; 431

(8) A representative of small businesses, appointed by the 432
state director of the Ohio chapter of the national federation of 433
independent business; 434

(9) A representative of local government, appointed by the 435
executive director of the county commissioners' association of 436
Ohio. 437

(C) All of the following apply to an advisory council 438
appointed under this section: 439

(1) The council shall be subject to the open meetings law 440
under section 121.22 of the Revised Code. 441

(2) Council members may vote to select the person to be 442
awarded the contract to administer the multiple-state prescription 443

drug purchasing program only if a quorum of the members is present 444
at the meeting at which the vote is taken. 445

(3) Council members shall not be reimbursed for any expenses 446
incurred while serving on the advisory council. 447

(4) The council may seek grants, donations, or other funds to 448
pay for its activities. 449

(5) The council shall cease to exist when it selects the 450
person to be awarded the contract that the council was appointed 451
to select. 452

(D) The agency seeking to create or join a multiple-state 453
prescription drug purchasing program shall provide to an advisory 454
council appointed under this section copies of proposals submitted 455
by each person seeking the contract to administer the program for 456
which the advisory council was appointed. The department shall 457
redact from each copy of each proposal it provides to an advisory 458
council under this section any proprietary information included in 459
the proposal. The person with whom the agency contracts for that 460
purpose shall be the person the advisory council selects. 461

462

Sec. 9.83. (A) The state and any political subdivision may 463
procure a policy or policies of insurance insuring its officers 464
and employees against liability for injury, death, or loss to 465
person or property that arises out of the operation of an 466
automobile, truck, motor vehicle with auxiliary equipment, 467
self-propelling equipment or trailer, aircraft, or watercraft by 468
the officers or employees while engaged in the course of their 469
employment or official responsibilities for the state or the 470
political subdivision. The state is authorized to expend funds to 471
pay judgments that are rendered in any court against its officers 472
or employees and that result from such operation, and is 473

authorized to expend funds to compromise claims for liability 474
against its officers or employees that result from such operation. 475
No insurer shall deny coverage under such a policy, and the state 476
shall not refuse to pay judgments or compromise claims, on the 477
ground that an automobile, truck, motor vehicle with auxiliary 478
equipment, self-propelling equipment or trailer, aircraft, or 479
watercraft was not being used in the course of an officer's or 480
employee's employment or official responsibilities for the state 481
or a political subdivision unless the officer or employee who was 482
operating an automobile, truck, motor vehicle with auxiliary 483
equipment, or self-propelling equipment or trailer is convicted of 484
a violation of section 124.71 of the Revised Code as a result of 485
the same events. 486

(B) ~~Such funds~~ Funds shall be reserved as ~~are~~ necessary, in 487
the exercise of sound and prudent actuarial judgment, to cover 488
potential expense, fees, damage, loss, or other liability. The 489
superintendent of insurance may recommend or, if the state 490
requests of the superintendent, shall recommend, a specific amount 491
for any period of time that, in the superintendent's opinion, 492
represents such a judgment. 493

(C) Nothing in this section shall be construed to require the 494
department of administrative services to purchase liability 495
insurance for all state vehicles in a single policy of insurance 496
or to cover all state vehicles under a single plan of 497
self-insurance. 498

(D) Insurance procured by the state pursuant to this section 499
shall be procured as provided in section 125.03 of the Revised 500
Code. 501

(E) For purposes of liability insurance procured under this 502
section to cover the operation of a motor vehicle by a prisoner 503
for whom the insurance is procured, "employee" includes a prisoner 504
in the custody of the department of rehabilitation and correction 505

who is enrolled in a work program that is established by the 506
department pursuant to section 5145.16 of the Revised Code and in 507
which the prisoner is required to operate a motor vehicle, as 508
defined in section 4509.01 of the Revised Code, and who is engaged 509
in the operation of a motor vehicle in the course of the work 510
program. 511

(F) There is hereby created in the state treasury the vehicle 512
liability fund. All contributions collected by the director of 513
administrative services under division (I) of this section shall 514
be deposited into the fund. The fund shall be used to provide 515
insurance and self-insurance for the state under this section. All 516
investment earnings of the fund shall be credited to it. 517

(G) The director of administrative services, through the 518
office of risk management, shall operate the vehicle liability 519
fund on an actuarially sound basis. 520

(H) Reserves shall be maintained in the vehicle liability 521
fund in any amount that is necessary and adequate, in the exercise 522
of sound and prudent actuarial judgment, to cover potential 523
liability claims, expenses, fees, or damages. Money in the fund 524
may be applied to the payment of liability claims that are filed 525
against the state in the court of claims and determined in the 526
manner provided in Chapter 2743. of the Revised Code. The director 527
of administrative services may procure the services of a qualified 528
actuarial firm for the purpose of recommending the specific amount 529
of money that is required to maintain adequate reserves for a 530
specified period of time. 531

(I) The director of administrative services shall collect 532
from each state agency or any participating state body its 533
contribution to the vehicle liability fund for the purpose of 534
purchasing insurance or administering self-insurance programs for 535
coverage authorized under this section. The amount of the 536
contribution shall be determined by the director, with the 537

approval of the director of budget and management. It shall be 538
based upon actuarial assumptions and the relative risk and loss 539
experience of each state agency or participating state body. The 540
amount of the contribution also shall include a reasonable sum to 541
cover administrative costs of the department of administrative 542
services. 543

Sec. 101.34. (A) There is hereby created a joint legislative 544
ethics committee to serve the general assembly. The committee 545
shall be composed of twelve members, six each from the two major 546
political parties, and each member shall serve on the committee 547
during the member's term as a member of that general assembly. Six 548
members of the committee shall be members of the house of 549
representatives appointed by the speaker of the house of 550
representatives, not more than three from the same political 551
party, and six members of the committee shall be members of the 552
senate appointed by the president of the senate, not more than 553
three from the same political party. A vacancy in the committee 554
shall be filled for the unexpired term in the same manner as an 555
original appointment. The members of the committee shall be 556
appointed within fifteen days after the first day of the first 557
regular session of each general assembly and the committee shall 558
meet and proceed to recommend an ethics code not later than thirty 559
days after the first day of the first regular session of each 560
general assembly. 561

In the first regular session of each general assembly, the 562
speaker of the house of representatives shall appoint the 563
chairperson of the committee from among the house members of the 564
committee and the president of the senate shall appoint the 565
vice-chairperson of the committee from among the senate members of 566
the committee. In the second regular session of each general 567
assembly, the president of the senate shall appoint the 568
chairperson of the committee from among the senate members of the 569

committee and the speaker of the house of representatives shall 570
appoint the vice-chairperson of the committee from among the house 571
members of the committee. The chairperson, vice-chairperson, and 572
members of the committee shall serve until their respective 573
successors are appointed or until they are no longer members of 574
the general assembly. 575

The committee shall meet at the call of the chairperson or 576
upon the written request of seven members of the committee. 577

(B) The joint legislative ethics committee: 578

(1) Shall recommend a code of ethics which is consistent with 579
law to govern all members and employees of each house of the 580
general assembly and all candidates for the office of member of 581
each house; 582

(2) May receive and hear any complaint which alleges a breach 583
of any privilege of either house, or misconduct of any member, 584
employee, or candidate, or any violation of the appropriate code 585
of ethics; 586

(3) May obtain information with respect to any complaint 587
filed pursuant to this section and to that end may enforce the 588
attendance and testimony of witnesses, and the production of books 589
and papers; 590

(4) May recommend whatever sanction is appropriate with 591
respect to a particular member, employee, or candidate as will 592
best maintain in the minds of the public a good opinion of the 593
conduct and character of members and employees of the general 594
assembly; 595

(5) May recommend legislation to the general assembly 596
relating to the conduct and ethics of members and employees of and 597
candidates for the general assembly; 598

(6) Shall employ an executive director for the committee and 599

may employ such other staff as the committee determines necessary 600
to assist it in exercising its powers and duties. The executive 601
director and staff of the committee shall be known as the office 602
of legislative inspector general. At least one member of the staff 603
of the committee shall be an attorney at law licensed to practice 604
law in this state. The appointment and removal of the executive 605
director shall require the approval of at least eight members of 606
the committee. 607

(7) May employ a special counsel to assist the committee in 608
exercising its powers and duties. The appointment and removal of a 609
special counsel shall require the approval of at least eight 610
members of the committee. 611

(8) Shall act as an advisory body to the general assembly and 612
to individual members, candidates, and employees on questions 613
relating to ethics, possible conflicts of interest, and financial 614
disclosure; 615

(9) Shall provide for the proper forms on which the statement 616
required pursuant to section 102.02 of the Revised Code shall be 617
filed and instructions as to the filing of the statement; 618

(10) Exercise the powers and duties prescribed under sections 619
101.70 to 101.79 and 121.60 to 121.69 of the Revised Code; 620

(11) Adopt in accordance with section 111.15 of the Revised 621
Code any rules that are necessary to implement and clarify Chapter 622
102. and sections 2921.42 and 2921.43 of the Revised Code. 623

(C) There is hereby created in the state treasury the joint 624
legislative ethics committee fund. ~~All money collected from~~ 625
~~registration fees and late filing fees prescribed under sections~~ 626
~~101.72 and 121.62 of the Revised Code shall be deposited into the~~ 627
~~state treasury to the credit of the fund.~~ Money credited to the 628
fund and any interest and earnings from the fund shall be used 629
solely for the operation of the joint legislative ethics committee 630

and the office of legislative inspector general and for the 631
purchase of data storage and computerization facilities for the 632
statements filed with the joint committee under sections 101.73, 633
101.74, 121.63, and 121.64 of the Revised Code. 634

(D) The chairperson of the joint committee shall issue a 635
written report, not later than the thirty-first day of January of 636
each year, to the speaker and minority leader of the house of 637
representatives and to the president and minority leader of the 638
senate that lists the number of committee meetings and 639
investigations the committee conducted during the immediately 640
preceding calendar year and the number of advisory opinions it 641
issued during the immediately preceding calendar year. 642

(E) Any investigative report that contains facts and findings 643
regarding a complaint filed with the committee and that is 644
prepared by the staff of the committee or a special counsel to the 645
committee shall become a public record upon its acceptance by a 646
vote of the majority of the members of the committee, except for 647
any names of specific individuals and entities contained in the 648
report. If the committee recommends disciplinary action or reports 649
its findings to the appropriate prosecuting authority for 650
proceedings in prosecution of the violations alleged in the 651
complaint, the investigatory report regarding the complaint shall 652
become a public record in its entirety. 653

(F)(1) Any file obtained by or in the possession of the 654
former house ethics committee or former senate ethics committee 655
shall become the property of the joint legislative ethics 656
committee. Any such file is confidential if either of the 657
following applies: 658

(a) It is confidential under section 102.06 of the Revised 659
Code or the legislative code of ethics. 660

(b) If the file was obtained from the former house ethics 661

committee or from the former senate ethics committee, it was 662
confidential under any statute or any provision of a code of 663
ethics that governed the file. 664

(2) As used in this division, "file" includes, but is not 665
limited to, evidence, documentation, or any other tangible thing. 666

Sec. 101.72. (A) Each legislative agent and employer, within 667
ten days following an engagement of a legislative agent, shall 668
file with the joint legislative ethics committee an initial 669
registration statement showing all of the following: 670

(1) The name, business address, and occupation of the 671
legislative agent; 672

(2) The name and business address of the employer and the 673
real party in interest on whose behalf the legislative agent is 674
actively advocating, if it is different from the employer. For the 675
purposes of division (A) of this section, where a trade 676
association or other charitable or fraternal organization that is 677
exempt from federal income taxation under subsection 501(c) of the 678
federal Internal Revenue Code is the employer, the statement need 679
not list the names and addresses of each member of the association 680
or organization, so long as the association or organization itself 681
is listed. 682

(3) A brief description of the type of legislation to which 683
the engagement relates. 684

(B) In addition to the initial registration statement 685
required by division (A) of this section, each legislative agent 686
and employer shall file with the joint committee, not later than 687
the last day of January, May, and September of each year, an 688
updated registration statement that confirms the continuing 689
existence of each engagement described in an initial registration 690
statement and that lists the specific bills or resolutions on 691

which the agent actively advocated under that engagement during 692
the period covered by the updated statement, and with it any 693
statement of expenditures required to be filed by section 101.73 694
of the Revised Code and any details of financial transactions 695
required to be filed by section 101.74 of the Revised Code. 696

(C) If a legislative agent is engaged by more than one 697
employer, the agent shall file a separate initial and updated 698
registration statement for each engagement. If an employer engages 699
more than one legislative agent, the employer need file only one 700
updated registration statement under division (B) of this section, 701
which shall contain the information required by division (B) of 702
this section regarding all of the legislative agents engaged by 703
the employer. 704

(D)(1) A change in any information required by division 705
(A)(1), (2), or (B) of this section shall be reflected in the next 706
updated registration statement filed under division (B) of this 707
section. 708

(2) Within thirty days after the termination of an 709
engagement, the legislative agent who was employed under the 710
engagement shall send written notification of the termination to 711
the joint committee. 712

(E) Except as otherwise provided in this division, a 713
registration fee of ~~ten~~ twenty-five dollars shall be charged for 714
filing an initial registration statement. All money collected from 715
registration fees under this division and late filing fees under 716
division (G) of this section shall be deposited ~~to the credit of~~ 717
~~the joint legislative ethics committee fund created under section~~ 718
~~101.34 of the Revised Code~~ into the general revenue fund of the 719
state. 720

An officer or employee of a state agency who actively 721
advocates in a fiduciary capacity as a representative of that 722

state agency need not pay the registration fee prescribed by this 723
division or file expenditure statements under section 101.73 of 724
the Revised Code. As used in this division, "state agency" does 725
not include a state institution of higher education as defined in 726
section 3345.011 of the Revised Code. 727

(F) Upon registration pursuant to division (A) of this 728
section, the legislative agent shall be issued a card by the joint 729
committee showing that the legislative agent is registered. The 730
registration card and the legislative agent's registration shall 731
be valid from the date of their issuance until the next 732
thirty-first day of December of an even-numbered year. 733

(G) The executive director of the joint committee shall be 734
responsible for reviewing each registration statement filed with 735
the joint committee under this section and for determining whether 736
the statement contains all of the information required by this 737
section. If the joint committee determines that the registration 738
statement does not contain all of the required information or that 739
a legislative agent or employer has failed to file a registration 740
statement, the joint committee shall send written notification by 741
certified mail to the person who filed the registration statement 742
regarding the deficiency in the statement or to the person who 743
failed to file the registration statement regarding the failure. 744
Any person so notified by the joint committee shall, not later 745
than fifteen days after receiving the notice, file a registration 746
statement or an amended registration statement that does contain 747
all of the information required by this section. If any person who 748
receives a notice under this division fails to file a registration 749
statement or such an amended registration statement within this 750
fifteen-day period, the joint committee shall assess a late filing 751
fee equal to twelve dollars and fifty cents per day, up to a 752
maximum of one hundred dollars, upon that person. The joint 753
committee may waive the late filing fee for good cause shown. 754

(H) On or before the fifteenth day of March of each year, the joint committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

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

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

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

(2) Any court;

(3) Any public body created by or directly pursuant to the constitution of this state;

(4) The board of trustees of any institution of higher education financially supported in whole or in part by the state;

(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;

(6) The public utilities commission of Ohio;

(7) The consumers' council governing board;

(8) The Ohio board of regents;

(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;

(10) Any board of elections;	784
(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;	785 786 787
(12) The Ohio public employees deferred compensation board;	788
(13) The Ohio retirement study council;	789
(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;	790 791 792 793
(15) The industrial commission.	794
(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.	795 796 797 798
(C) "Terminate" means to amend or repeal the statutes creating and empowering an agency, remove its personnel, and reassign its functions and records to another agency or officer designated by the general assembly.	799 800 801 802
(D) "Transfer" means to amend the statutes creating and empowering an agency so that its functions, records, and personnel are conveyed to another agency or officer.	803 804 805
(E) "Renew" means to continue an agency, and may include amendment of the statutes creating and empowering the agency, or recommendations for changes in agency operation or personnel.	806 807 808
Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to	809 810 811 812

fill a vacancy for an unexpired term in such an elective office; 813
all members of the state board of education; the director, 814
assistant directors, deputy directors, division chiefs, or persons 815
of equivalent rank of any administrative department of the state; 816
the president or other chief administrative officer of every state 817
institution of higher education as defined in section 3345.011 of 818
the Revised Code; the chief executive officer of each state 819
retirement system; all members of the board of commissioners on 820
grievances and discipline of the supreme court and the ethics 821
commission created under section 102.05 of the Revised Code; every 822
business manager, treasurer, or superintendent of a city, local, 823
exempted village, joint vocational, or cooperative education 824
school district or an educational service center; every person who 825
is elected to or is a candidate for the office of member of a 826
board of education of a city, local, exempted village, joint 827
vocational, or cooperative education school district or of a 828
governing board of an educational service center that has a total 829
student count of twelve thousand or more as most recently 830
determined by the department of education pursuant to section 831
3317.03 of the Revised Code; every person who is appointed to the 832
board of education of a municipal school district pursuant to 833
division (B) or (F) of section 3311.71 of the Revised Code; all 834
members of the board of directors of a sanitary district 835
established under Chapter 6115. of the Revised Code and organized 836
wholly for the purpose of providing a water supply for domestic, 837
municipal, and public use that includes two municipal corporations 838
in two counties; every public official or employee who is paid a 839
salary or wage in accordance with schedule C of section 124.15 or 840
schedule E-2 of section 124.152 of the Revised Code; members of 841
the board of trustees and the executive director of the tobacco 842
use prevention and control foundation; members of the board of 843
trustees and the executive director of the southern Ohio 844
agricultural and community development foundation; and every other 845

public official or employee who is designated by the appropriate 846
ethics commission pursuant to division (B) of this section shall 847
file with the appropriate ethics commission on a form prescribed 848
by the commission, a statement disclosing all of the following: 849

(1) The name of the person filing the statement and each 850
member of the person's immediate family and all names under which 851
the person or members of the person's immediate family do 852
business; 853

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 854
and except as otherwise provided in section 102.022 of the Revised 855
Code, identification of every source of income, other than income 856
from a legislative agent identified in division (A)(2)(b) of this 857
section, received during the preceding calendar year, in the 858
person's own name or by any other person for the person's use or 859
benefit, by the person filing the statement, and a brief 860
description of the nature of the services for which the income was 861
received. If the person filing the statement is a member of the 862
general assembly, the statement shall identify the amount of every 863
source of income received in accordance with the following ranges 864
of amounts: zero or more, but less than one thousand dollars; one 865
thousand dollars or more, but less than ten thousand dollars; ten 866
thousand dollars or more, but less than twenty-five thousand 867
dollars; twenty-five thousand dollars or more, but less than fifty 868
thousand dollars; fifty thousand dollars or more, but less than 869
one hundred thousand dollars; and one hundred thousand dollars or 870
more. Division (A)(2)(a) of this section shall not be construed to 871
require a person filing the statement who derives income from a 872
business or profession to disclose the individual items of income 873
that constitute the gross income of that business or profession, 874
except for those individual items of income that are attributable 875
to the person's or, if the income is shared with the person, the 876
partner's, solicitation of services or goods or performance, 877

arrangement, or facilitation of services or provision of goods on 878
behalf of the business or profession of clients, including 879
corporate clients, who are legislative agents as defined in 880
section 101.70 of the Revised Code. A person who files the 881
statement under this section shall disclose the identity of and 882
the amount of income received from a person who the public 883
official or employee knows or has reason to know is doing or 884
seeking to do business of any kind with the public official's or 885
employee's agency. 886

(b) If the person filing the statement is a member of the 887
general assembly, the statement shall identify every source of 888
income and the amount of that income that was received from a 889
legislative agent, as defined in section 101.70 of the Revised 890
Code, during the preceding calendar year, in the person's own name 891
or by any other person for the person's use or benefit, by the 892
person filing the statement, and a brief description of the nature 893
of the services for which the income was received. Division 894
(A)(2)(b) of this section requires the disclosure of clients of 895
attorneys or persons licensed under section 4732.12 of the Revised 896
Code, or patients of persons certified under section 4731.14 of 897
the Revised Code, if those clients or patients are legislative 898
agents. Division (A)(2)(b) of this section requires a person 899
filing the statement who derives income from a business or 900
profession to disclose those individual items of income that 901
constitute the gross income of that business or profession that 902
are received from legislative agents. 903

(c) Except as otherwise provided in division (A)(2)(c) of 904
this section, division (A)(2)(a) of this section applies to 905
attorneys, physicians, and other persons who engage in the 906
practice of a profession and who, pursuant to a section of the 907
Revised Code, the common law of this state, a code of ethics 908
applicable to the profession, or otherwise, generally are required 909

not to reveal, disclose, or use confidences of clients, patients, 910
or other recipients of professional services except under 911
specified circumstances or generally are required to maintain 912
those types of confidences as privileged communications except 913
under specified circumstances. Division (A)(2)(a) of this section 914
does not require an attorney, physician, or other professional 915
subject to a confidentiality requirement as described in division 916
(A)(2)(c) of this section to disclose the name, other identity, or 917
address of a client, patient, or other recipient of professional 918
services if the disclosure would threaten the client, patient, or 919
other recipient of professional services, would reveal details of 920
the subject matter for which legal, medical, or professional 921
advice or other services were sought, or would reveal an otherwise 922
privileged communication involving the client, patient, or other 923
recipient of professional services. Division (A)(2)(a) of this 924
section does not require an attorney, physician, or other 925
professional subject to a confidentiality requirement as described 926
in division (A)(2)(c) of this section to disclose in the brief 927
description of the nature of services required by division 928
(A)(2)(a) of this section any information pertaining to specific 929
professional services rendered for a client, patient, or other 930
recipient of professional services that would reveal details of 931
the subject matter for which legal, medical, or professional 932
advice was sought or would reveal an otherwise privileged 933
communication involving the client, patient, or other recipient of 934
professional services. 935

(3) The name of every corporation on file with the secretary 936
of state that is incorporated in this state or holds a certificate 937
of compliance authorizing it to do business in this state, trust, 938
business trust, partnership, or association that transacts 939
business in this state in which the person filing the statement or 940
any other person for the person's use and benefit had during the 941
preceding calendar year an investment of over one thousand dollars 942

at fair market value as of the thirty-first day of December of the 943
preceding calendar year, or the date of disposition, whichever is 944
earlier, or in which the person holds any office or has a 945
fiduciary relationship, and a description of the nature of the 946
investment, office, or relationship. Division (A)(3) of this 947
section does not require disclosure of the name of any bank, 948
savings and loan association, credit union, or building and loan 949
association with which the person filing the statement has a 950
deposit or a withdrawable share account. 951

(4) All fee simple and leasehold interests to which the 952
person filing the statement holds legal title to or a beneficial 953
interest in real property located within the state, excluding the 954
person's residence and property used primarily for personal 955
recreation; 956

(5) The names of all persons residing or transacting business 957
in the state to whom the person filing the statement owes, in the 958
person's own name or in the name of any other person, more than 959
one thousand dollars. Division (A)(5) of this section shall not be 960
construed to require the disclosure of debts owed by the person 961
resulting from the ordinary conduct of a business or profession or 962
debts on the person's residence or real property used primarily 963
for personal recreation, except that the superintendent of 964
financial institutions shall disclose the names of all 965
state-chartered savings and loan associations and of all service 966
corporations subject to regulation under division (E)(2) of 967
section 1151.34 of the Revised Code to whom the superintendent in 968
the superintendent's own name or in the name of any other person 969
owes any money, and that the superintendent and any deputy 970
superintendent of banks shall disclose the names of all 971
state-chartered banks and all bank subsidiary corporations subject 972
to regulation under section 1109.44 of the Revised Code to whom 973
the superintendent or deputy superintendent owes any money. 974

(6) The names of all persons residing or transacting business 975
in the state, other than a depository excluded under division 976
(A)(3) of this section, who owe more than one thousand dollars to 977
the person filing the statement, either in the person's own name 978
or to any person for the person's use or benefit. Division (A)(6) 979
of this section shall not be construed to require the disclosure 980
of clients of attorneys or persons licensed under section 4732.12 981
or 4732.15 of the Revised Code, or patients of persons certified 982
under section 4731.14 of the Revised Code, nor the disclosure of 983
debts owed to the person resulting from the ordinary conduct of a 984
business or profession. 985

(7) Except as otherwise provided in section 102.022 of the 986
Revised Code, the source of each gift of over seventy-five 987
dollars, or of each gift of over twenty-five dollars received by a 988
member of the general assembly from a legislative agent, received 989
by the person in the person's own name or by any other person for 990
the person's use or benefit during the preceding calendar year, 991
except gifts received by will or by virtue of section 2105.06 of 992
the Revised Code, or received from spouses, parents, grandparents, 993
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 994
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 995
fathers-in-law, mothers-in-law, or any person to whom the person 996
filing the statement stands in loco parentis, or received by way 997
of distribution from any inter vivos or testamentary trust 998
established by a spouse or by an ancestor; 999

(8) Except as otherwise provided in section 102.022 of the 1000
Revised Code, identification of the source and amount of every 1001
payment of expenses incurred for travel to destinations inside or 1002
outside this state that is received by the person in the person's 1003
own name or by any other person for the person's use or benefit 1004
and that is incurred in connection with the person's official 1005
duties, except for expenses for travel to meetings or conventions 1006

of a national or state organization to which any state agency, 1007
including, but not limited to, any legislative agency or state 1008
institution of higher education as defined in section 3345.011 of 1009
the Revised Code, pays membership dues, or any political 1010
subdivision or any office or agency of a political subdivision 1011
pays membership dues; 1012

(9) Except as otherwise provided in section 102.022 of the 1013
Revised Code, identification of the source of payment of expenses 1014
for meals and other food and beverages, other than for meals and 1015
other food and beverages provided at a meeting at which the person 1016
participated in a panel, seminar, or speaking engagement or at a 1017
meeting or convention of a national or state organization to which 1018
any state agency, including, but not limited to, any legislative 1019
agency or state institution of higher education as defined in 1020
section 3345.011 of the Revised Code, pays membership dues, or any 1021
political subdivision or any office or agency of a political 1022
subdivision pays membership dues, that are incurred in connection 1023
with the person's official duties and that exceed one hundred 1024
dollars aggregated per calendar year; 1025

(10) If the financial disclosure statement is filed by a 1026
public official or employee described in division (B)(2) of 1027
section 101.73 of the Revised Code or division (B)(2) of section 1028
121.63 of the Revised Code who receives a statement from a 1029
legislative agent, executive agency lobbyist, or employer that 1030
contains the information described in division (F)(2) of section 1031
101.73 of the Revised Code or division (G)(2) of section 121.63 of 1032
the Revised Code, all of the nondisputed information contained in 1033
the statement delivered to that public official or employee by the 1034
legislative agent, executive agency lobbyist, or employer under 1035
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 1036
the Revised Code. As used in division (A)(10) of this section, 1037
"legislative agent," "executive agency lobbyist," and "employer" 1038

have the same meanings as in sections 101.70 and 121.60 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

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

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

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not

specifically excluded by this section whose positions involve a 1071
substantial and material exercise of administrative discretion in 1072
the formulation of public policy, expenditure of public funds, 1073
enforcement of laws and rules of the state or a county or city, or 1074
the execution of other public trusts, to file an annual statement 1075
on or before the fifteenth day of April under division (A) of this 1076
section. The appropriate ethics commission shall send the public 1077
officials or employees written notice of the requirement by the 1078
fifteenth day of February of each year the filing is required 1079
unless the public official or employee is appointed after that 1080
date, in which case the notice shall be sent within thirty days 1081
after appointment, and the filing shall be made not later than 1082
ninety days after appointment. 1083

Except for disclosure statements filed by members of the 1084
board of trustees and the executive director of the tobacco use 1085
prevention and control foundation and members of the board of 1086
trustees and the executive director of the southern Ohio 1087
agricultural and community development foundation, disclosure 1088
statements filed under this division with the Ohio ethics 1089
commission by members of boards, commissions, or bureaus of the 1090
state for which no compensation is received other than reasonable 1091
and necessary expenses shall be kept confidential. Disclosure 1092
statements filed with the Ohio ethics commission under division 1093
(A) of this section by business managers, treasurers, and 1094
superintendents of city, local, exempted village, joint 1095
vocational, or cooperative education school districts or 1096
educational service centers shall be kept confidential, except 1097
that any person conducting an audit of any such school district or 1098
educational service center pursuant to section 115.56 or Chapter 1099
117. of the Revised Code may examine the disclosure statement of 1100
any business manager, treasurer, or superintendent of that school 1101
district or educational service center. The Ohio ethics commission 1102
shall examine each disclosure statement required to be kept 1103

confidential to determine whether a potential conflict of interest 1104
exists for the person who filed the disclosure statement. A 1105
potential conflict of interest exists if the private interests of 1106
the person, as indicated by the person's disclosure statement, 1107
might interfere with the public interests the person is required 1108
to serve in the exercise of the person's authority and duties in 1109
the person's office or position of employment. If the commission 1110
determines that a potential conflict of interest exists, it shall 1111
notify the person who filed the disclosure statement and shall 1112
make the portions of the disclosure statement that indicate a 1113
potential conflict of interest subject to public inspection in the 1114
same manner as is provided for other disclosure statements. Any 1115
portion of the disclosure statement that the commission determines 1116
does not indicate a potential conflict of interest shall be kept 1117
confidential by the commission and shall not be made subject to 1118
public inspection, except as is necessary for the enforcement of 1119
Chapters 102. and 2921. of the Revised Code and except as 1120
otherwise provided in this division. 1121

(C) No person shall knowingly fail to file, on or before the 1122
applicable filing deadline established under this section, a 1123
statement that is required by this section. 1124

(D) No person shall knowingly file a false statement that is 1125
required to be filed under this section. 1126

(E)(1) Except as provided in divisions (E)(2) and (3) of this 1127
section, the statement required by division (A) or (B) of this 1128
section shall be accompanied by a filing fee of ~~twenty-five~~ forty 1129
dollars. 1130

(2) The statement required by division (A) of this section 1131
shall be accompanied by a the following filing fee to be paid by 1132
the person who is elected or appointed to, or is a candidate for, 1133
any of the following offices: 1134

For state office, except member of the 1135

state board of education	\$50 <u>65</u>	1136
For office of member of United States congress or member of general assembly	\$25 <u>40</u>	1137 1138
For county office	\$25 <u>40</u>	1139
For city office	\$10 <u>25</u>	1140
For office of member of <u>the</u> state board of education	\$20 <u>25</u>	1141 1142
For office of member of <u>a</u> city, local, exempted village, or cooperative education board of education or educational service center governing board	\$ 5 <u>20</u>	1143 1144 1145 1146 1147
For position of business manager, treasurer, or superintendent of <u>a</u> city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$ 5 <u>20</u>	1148 1149 1150 1151 1152 1153
(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.		1154 1155 1156 1157
(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.		1158 1159 1160 1161 1162
(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee equal to one-half of the applicable filing fee <u>ten dollars</u> for each day the statement is		1163 1164 1165 1166 1167

not filed, except that the total amount of the late filing fee 1168
shall not exceed ~~one~~ two hundred fifty dollars. 1169

(G)(1) The appropriate ethics commission other than the Ohio 1170
ethics commission shall deposit all fees it receives under 1171
divisions (E) and (F) of this section into the general revenue 1172
fund of the state. 1173

(2) The Ohio ethics commission shall deposit all receipts, 1174
including, but not limited to, fees it receives under divisions 1175
(E) and (F) of this section and all moneys it receives from 1176
settlements under division (G) of section 102.06 of the Revised 1177
Code, into the Ohio ethics commission fund, which is hereby 1178
created in the state treasury. All moneys credited to the fund 1179
shall be used solely for expenses related to the operation and 1180
statutory functions of the commission. 1181

(H) Division (A) of this section does not apply to a person 1182
elected or appointed to the office of precinct, ward, or district 1183
committee member under Chapter 3517. of the Revised Code; a 1184
presidential elector; a delegate to a national convention; village 1185
or township officials and employees; any physician or psychiatrist 1186
who is paid a salary or wage in accordance with schedule C of 1187
section 124.15 or schedule E-2 of section 124.152 of the Revised 1188
Code and whose primary duties do not require the exercise of 1189
administrative discretion; or any member of a board, commission, 1190
or bureau of any county or city who receives less than one 1191
thousand dollars per year for serving in that position. 1192

Sec. 106.01. (A)(1) There is hereby created the legislative 1193
budget audit commission, to be composed of ten members. The 1194
commission shall examine the operations of state agencies and make 1195
recommendations to the general assembly on ways in which state 1196
agencies can operate more efficiently. The president of the senate 1197
shall appoint to the commission two members of the senate, each of 1198

whom shall be a member of a different political party. The speaker 1199
of the house of representatives shall appoint to the commission 1200
two members of the house of representatives, each of whom shall be 1201
a member of a different political party. The president of the 1202
senate and the speaker of the house of representatives shall each 1203
appoint to the commission three members who are knowledgeable in 1204
finance and state government. 1205

(2) Terms of office of the members of the commission shall be 1206
for three years. Each member shall serve subsequent to the 1207
expiration of the member's term until a successor is appointed, or 1208
until sixty days has elapsed, whichever occurs first. No member 1209
shall serve more than two consecutive terms. 1210

(3) All vacancies in the membership of the commission shall 1211
be filled in the same manner prescribed for original appointments 1212
to the commission and shall be limited to the unexpired terms. 1213

(4) The members of the commission shall serve without 1214
compensation, but shall be reimbursed for their actual and 1215
necessary expenses incurred in the performance of their official 1216
duties. 1217

(B)(1) The commission shall appoint the executive director of 1218
the commission. The executive director of the commission shall 1219
serve at the pleasure of the commission. The commission shall set 1220
the salary of the executive director. 1221

(2) The executive director, with the approval of the 1222
commission, shall employ all necessary staff and set their 1223
salaries. 1224

(3) The commission shall meet at the call of the executive 1225
director. 1226

Sec. 106.02. (A) As used in sections 106.02 to 106.05 of the 1227
Revised Code: 1228

(1) "State agency" has the same meaning as in section 9.82 of the Revised Code. 1229
1230

(2) "Savings" means a reduction in expenditures resulting from the implementation, in whole or in part, of a recommendation made by the legislative budget audit commission. 1231
1232
1233

(B) The commission shall make recommendations to assist the general assembly in developing policies to streamline state agency operations. The commission shall promptly answer reasonable requests about reducing or eliminating expenditures from members of the general assembly and directors of state agencies. 1234
1235
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(C) In examining the operations of state agencies to develop the recommendations described in division (B) of this section, the commission shall consider how state agencies can better allocate their resources by doing any or all of the following: 1239
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1242

(1) Streamlining, reorganizing, consolidating, contracting out, or eliminating functions performed by the state agency; 1243
1244

(2) Reducing duplicative staffing; 1245

(3) Improving space and property use, including exploring the sale or lease of surplus or unneeded property; 1246
1247

(4) Increasing the state agency's capacity to deliver services and improve responsiveness to citizens; 1248
1249

(5) Streamlining procurement procedures; 1250

(6) Improving the use of cost-saving information technology in service delivery and in reducing the need for paperwork; 1251
1252

(7) Improving internal budgeting and financial administration procedures, including procedures to collect more efficiently past due accounts receivable; 1253
1254
1255

(8) Improving the employee awards system established in section 124.17 of the Revised Code, or devising other incentive 1256
1257

<u>programs;</u>	1258
<u>(9) Contracting with the private sector to conduct activities currently performed by the state agency;</u>	1259 1260
<u>(10) Establishing techniques for the measurement of productivity and the evaluation of employee performance;</u>	1261 1262
<u>(11) Undertaking other methods or procedures designed to improve the use of state funds.</u>	1263 1264
<u>(D) Not later than January 15, 2005, and not later than the fifteenth day of January of each calendar year thereafter, the commission shall submit a report of its findings and recommendations to the general assembly. All reports submitted by the commission after the initial report shall include a review of previous recommendations and findings made by the commission, and a description of the savings realized by each state agency that are listed in the report submitted by the director of budget and management under section 106.05 of the Revised Code.</u>	1265 1266 1267 1268 1269 1270 1271 1272 1273
<u>Sec. 106.03. There is hereby created in the state treasury the legislative budget audit commission savings fund. The fund shall provide amounts to fund the legislative budget audit commission in accordance with sections 106.01 to 106.05 of the Revised Code.</u>	1274 1275 1276 1277 1278
<u>Sec. 106.04. (A) State agencies shall promptly respond to reasonable requests for information from the legislative budget audit commission.</u>	1279 1280 1281
<u>(B) Not later than December 1, 2006, and on the first day of December of each second year thereafter, each state agency shall provide a written report to the director of budget and management describing any savings the agency realized during the immediately preceding two years that are directly attributable to implementing any recommendations made by the commission under section 106.02 of</u>	1282 1283 1284 1285 1286 1287

the Revised Code. 1288

(C) The office of budget and management shall compile all 1289
reports submitted by state agencies under division (B) of this 1290
section and provide the information contained in those reports to 1291
the governor, the speaker of the house of representatives, and the 1292
president of the senate. 1293

Sec. 106.05. (A) The director of budget and management shall 1294
review the reports submitted by the legislative budget audit 1295
commission under section 106.02 of the Revised Code and the 1296
reports submitted by state agencies under section 106.04 of the 1297
Revised Code and determine the amount of any savings actually 1298
realized by each state agency during the immediately preceding two 1299
years that are directly attributable to implementing the 1300
commission's recommendations. 1301

(B) Not later than December 31, 2006, and on the last day of 1302
December of each second year thereafter, the director of budget 1303
and management shall submit a report describing the actual savings 1304
realized by each state agency during the immediately preceding two 1305
years that are directly attributable to implementing the 1306
recommendations made by the commission under section 106.02 of the 1307
Revised Code. 1308

(C) The main operating appropriations bill for the period 1309
beginning July 1, 2007, and each main operating appropriations 1310
bill thereafter, shall propose the transfer of an amount that is 1311
equal to the total savings that each state agency realized and 1312
that is described in the report submitted under division (B) of 1313
this section that exceeds the total biennial appropriations for 1314
the legislative budget audit commission for that biennium. The 1315
transfer shall be made from the general revenue fund or from any 1316
other fund that provides funds to that state agency, as 1317
appropriate, to the budget stabilization fund created by section 1318

131.43 of the Revised Code. 1319

Sec. 107.12. (A) As used in this section, "organization" 1320
means a faith-based or other organization that is exempt from 1321
federal income taxation under section 501(c)(3) of the Internal 1322
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and 1323
provides charitable services to needy residents of this state. 1324

(B) There is hereby established within the office of the 1325
governor the governor's office for faith-based nonprofit and other 1326
nonprofit organizations. The office shall: 1327

(1) Serve as a clearinghouse of information on federal, 1328
state, and local funding for charitable services performed by 1329
organizations; 1330

(2) Encourage organizations to seek public funding for their 1331
charitable services; 1332

(3) Act as a liaison between state agencies and 1333
organizations; 1334

(4) Advise the governor, general assembly, and the advisory 1335
board of the governor's office for faith-based nonprofit or other 1336
nonprofit organizations on the barriers that exist to 1337
collaboration between organizations and governmental entities and 1338
on ways to remove the barriers. 1339

(C) The governor shall appoint an executive assistant to 1340
manage the office and perform or oversee the performance of the 1341
duties of the office. 1342

(D)(1) There is hereby created the advisory board of the 1343
governor's office for faith-based nonprofit and other nonprofit 1344
organizations. The board shall consist of members appointed as 1345
follows: 1346

(a) The directors of aging, alcohol and drug addiction 1347
services, rehabilitation and correction, health, job and family 1348

services, mental health, and youth services shall each appoint to 1349
the board one employee of that director's department. 1350

(b) The speaker of the house of representatives shall appoint 1351
to the board two members of the house of representatives, not more 1352
than one of whom shall be from the same political party and at 1353
least one of whom shall be from the legislative black caucus. The 1354
speaker of the house of representatives shall consult with the 1355
president of the legislative black caucus in making the 1356
legislative black caucus member appointment. The president of the 1357
senate shall appoint to the board two members of the senate, not 1358
more than one of whom shall be from the same political party. 1359

(c) The governor, speaker of the house of representatives, 1360
and president of the senate shall each appoint to the board three 1361
representatives of the nonprofit, faith-based and other nonprofit 1362
community. 1363

(2) The appointments to the board shall be made within thirty 1364
days after the effective date of this section. Terms of the office 1365
shall be one year. Any vacancy that occurs on the board shall be 1366
filled in the same manner as the original appointment. The members 1367
of the board shall serve without compensation. 1368

(3) At its initial meeting, the board shall elect a 1369
chairperson. The chairperson shall be a member of the board who is 1370
a member of the house of representatives. 1371

(E) The board shall do both of the following: 1372

(1) Provide direction, guidance, and oversight to the office; 1373

(2) Publish a report of its activities on or before the first 1374
day of August of each year, and deliver copies of the report to 1375
the governor, the speaker and minority leader of the house of 1376
representatives, and the president and minority leader of the 1377
senate. 1378

Sec. 107.31. (A) As used in this section: 1379

(1) "State institutional facility" means any institution or other facility, in operation on or after January 1, 2003, for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government. 1380
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(2) "Target state agency" means the agency of state government that operates the institutional facility or facilities that the governor believes should be closed. 1387
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(B) Prior to the closing of a state institutional facility, the target state agency shall conduct a survey and analysis of the needs of each client at that facility for the purpose of ensuring that each client's identified needs during the transition and in the client's new setting are met. A copy of the analysis, devoid of any client identifying information, as well as the target state agency's proposal for meeting the needs of the clients, shall be submitted to the general assembly in accordance with section 101.68 of the Revised Code at least two months prior to the closing. 1390
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Sec. 107.32. (A) As used in this section and section 107.33 of the Revised Code: 1400
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(1) "State institutional facility" means any institution or other facility for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government. 1402
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(2) "Target state agency" means the agency of state 1408

government that the governor identifies in a notice provided under 1409
division (C)(1) of this section and that operates an institutional 1410
facility or facilities the governor believes should be closed. 1411

(B) Notwithstanding any other provision of law, the governor 1412
shall not order the closure of any state institutional facility, 1413
for the purpose of expenditure reductions or budget cuts, other 1414
than in accordance with this section. 1415

(C) If the governor determines that necessary expenditure 1416
reductions and budget cuts cannot be made without closing one or 1417
more state institutional facilities, all of the following apply: 1418

(1) The governor shall determine which state agency's 1419
institutional facility or facilities the governor believes should 1420
be closed, shall notify the general assembly and that agency of 1421
that determination, and shall specify in the notice the number of 1422
facilities of that agency that the governor believes should be 1423
closed and the anticipated savings to be obtained through that 1424
closure or those closures. 1425

(2) Upon the governor's provision of the notice described in 1426
division (C)(1) of this section, a state facilities closure 1427
commission shall be created as described in division (D) of this 1428
section regarding the target state agency. Not later than seven 1429
days after the governor provides that notice, the officials with 1430
the duties to appoint members of the commission for the target 1431
state agency, as described in division (D) of this section, shall 1432
appoint the specified members of the commission, and, as soon as 1433
possible after the appointments, the commission shall meet for the 1434
purposes described in that division. Not later than thirty days 1435
after the governor provides the notice described in division 1436
(C)(1) of this section, the state facilities closure commission 1437
shall provide to the general assembly, the governor, and the 1438
target state agency a report that contains the commission's 1439
recommendation as to the state institutional facility or 1440

facilities of the target state agency that the governor may close. 1441
The anticipated savings to be obtained by the commission's 1442
recommendation shall be approximately the same as the anticipated 1443
savings the governor specified in the governor's notice provided 1444
under division (C)(1) of this section, and, if the recommendation 1445
identifies more than one facility, it shall list them in order of 1446
the commission's preference for closure. A state facilities 1447
closure commission created for a particular target state agency 1448
shall make a report only regarding that target state agency and 1449
shall include no recommendations regarding any other state agency 1450
or department in its report. 1451

(3) Upon receipt of the report of the state facilities 1452
closure commission under division (C)(2) of this section for a 1453
target state agency, if the governor still believes that necessary 1454
expenditure reductions and budget cuts cannot be made without 1455
closing one or more state institutional facilities, the governor 1456
may close state institutional facilities of the target state 1457
agency that are identified in the commission's recommendation 1458
contained in the report. Except as otherwise provided in this 1459
division, the governor shall not close any state institutional 1460
facility of the target state agency that is not listed in the 1461
commission's recommendation, and shall not close multiple 1462
institutions in any order other than the order of the commission's 1463
preference as specified in the recommendation. The governor is not 1464
required to follow the recommendation of the commission in closing 1465
an institutional facility if the governor determines that a 1466
significant change in circumstances makes the recommendation 1467
unworkable. 1468

(D) A state facilities closure commission shall be created at 1469
the time and in the manner specified in division (C)(2) of this 1470
section. If more than one state agency or department is a target 1471
state agency, a separate state facilities closure commission shall 1472

be created for each such target state agency. Each commission 1473
consists of eleven members. Three members shall be members of the 1474
house of representatives appointed by the speaker of the house of 1475
representatives, none of the members so appointed may have a state 1476
institutional facility of the target state agency in the member's 1477
district, two of the members so appointed shall be members of the 1478
majority political party in the house of representatives, and one 1479
of the members so appointed shall not be a member of the majority 1480
political party in the house of representatives. Three members 1481
shall be members of the senate appointed by the president of the 1482
senate, none of the members so appointed may have a state 1483
institutional facility of the target state agency in the member's 1484
district, two of the members so appointed shall be members of the 1485
majority political party in the senate, and one of the members so 1486
appointed shall not be a member of the majority political party in 1487
the senate. One member shall be the director of budget and 1488
management. One member shall be the director, or other agency 1489
head, of the target state agency. Two members shall be private 1490
executives with expertise in facility utilization, with one of 1491
these members appointed by the speaker of the house of 1492
representatives and the other appointed by the president of the 1493
senate, and neither of the members so appointed may have a state 1494
institutional facility of the target state agency in the county in 1495
which the member resides. One member shall be a representative of 1496
the Ohio civil service employees' association or other 1497
representative association of the employees of the target state 1498
agency, appointed by the speaker of the house of representatives. 1499
The officials with the duties to appoint members of the commission 1500
shall make the appointments, and the commission shall meet, within 1501
the time periods specified in division (C)(2) of this section. The 1502
members of the commission shall serve without compensation. At the 1503
commission's first meeting, the members shall organize, and 1504
appoint a chairperson and vice-chairperson. 1505

The commission shall determine which state institutional facility or facilities under the control of the target state agency for which the commission was created should be closed. In making this determination, the commission shall, at a minimum, consider the following factors:

(1) Whether there is a need to reduce the number of facilities;

(2) The availability of alternate facilities;

(3) The cost effectiveness of the facilities;

(4) The geographic factors associated with each facility and its proximity to other similar facilities;

(5) The impact of collective bargaining on facility operations;

(6) The utilization and maximization of resources;

(7) Continuity of the staff and ability to serve the facility population;

(8) Continuing costs following closure of a facility;

(9) The impact of the closure on the local economy;

(10) Alternatives and opportunities for consolidation with other facilities.

The commission shall meet as often as necessary to make its determination, may take testimony and consider all relevant information, and shall prepare and provide in accordance with division (C)(2) of this section a report containing its recommendations. Upon providing the report regarding the target state agency, the commission shall cease to exist, provided that another commission shall be created for the same state agency if the agency is made a target state agency in another report provided under division (C)(1) of this section and provided that

another commission shall be created for a different state agency 1535
if that other agency is made a target state agency in a report 1536
provided under that division. 1537

Sec. 107.33. Notwithstanding any other provision of law, if 1538
the closure of the particular facility is authorized under section 1539
107.32 of the Revised Code, the governor may terminate any 1540
contract entered into under section 9.06 of the Revised Code for 1541
the private operation and management of any correctional facility 1542
under the control of the department of rehabilitation and 1543
correction, including, but not limited to the initial intensive 1544
program prison established pursuant to section 5120.033 of the 1545
Revised Code as it existed prior to the effective date of this 1546
section, and terminate the operation of, and close that facility. 1547
If the governor terminates a contract for the private operation 1548
and management of a facility, and terminates the operation of, and 1549
closes, the facility as described in this section, inmates in the 1550
facility shall be transferred to another correctional facility 1551
under the control of the department. If the initial intensive 1552
program prison is closed, divisions (G)(2)(a) and (b) of section 1553
2929.13 of the Revised Code have no effect while the facility is 1554
closed. 1555

Sec. 109.57. (A)(1) The superintendent of the bureau of 1556
criminal identification and investigation shall procure from 1557
wherever procurable and file for record photographs, pictures, 1558
descriptions, fingerprints, measurements, and other information 1559
that may be pertinent of all persons who have been convicted of 1560
committing within this state a felony, any crime constituting a 1561
misdemeanor on the first offense and a felony on subsequent 1562
offenses, or any misdemeanor described in division (A)(1)(a) of 1563
section 109.572 of the Revised Code, of all children under 1564
eighteen years of age who have been adjudicated delinquent 1565

children for committing within this state an act that would be a 1566
felony or an offense of violence if committed by an adult or who 1567
have been convicted of or pleaded guilty to committing within this 1568
state a felony or an offense of violence, and of all well-known 1569
and habitual criminals. The person in charge of any county, 1570
multicounty, municipal, municipal-county, or multicounty-municipal 1571
jail or workhouse, community-based correctional facility, halfway 1572
house, alternative residential facility, or state correctional 1573
institution and the person in charge of any state institution 1574
having custody of a person suspected of having committed a felony, 1575
any crime constituting a misdemeanor on the first offense and a 1576
felony on subsequent offenses, or any misdemeanor described in 1577
division (A)(1)(a) of section 109.572 of the Revised Code or 1578
having custody of a child under eighteen years of age with respect 1579
to whom there is probable cause to believe that the child may have 1580
committed an act that would be a felony or an offense of violence 1581
if committed by an adult shall furnish such material to the 1582
superintendent of the bureau. Fingerprints, photographs, or other 1583
descriptive information of a child who is under eighteen years of 1584
age, has not been arrested or otherwise taken into custody for 1585
committing an act that would be a felony or an offense of violence 1586
if committed by an adult, has not been adjudicated a delinquent 1587
child for committing an act that would be a felony or an offense 1588
of violence if committed by an adult, has not been convicted of or 1589
pleaded guilty to committing a felony or an offense of violence, 1590
and is not a child with respect to whom there is probable cause to 1591
believe that the child may have committed an act that would be a 1592
felony or an offense of violence if committed by an adult shall 1593
not be procured by the superintendent or furnished by any person 1594
in charge of any county, multicounty, municipal, municipal-county, 1595
or multicounty-municipal jail or workhouse, community-based 1596
correctional facility, halfway house, alternative residential 1597
facility, or state correctional institution, except as authorized 1598

in section 2151.313 of the Revised Code. 1599

(2) Every clerk of a court of record in this state, other 1600
than the supreme court or a court of appeals, shall send to the 1601
superintendent of the bureau a weekly report containing a summary 1602
of each case involving a felony, involving any crime constituting 1603
a misdemeanor on the first offense and a felony on subsequent 1604
offenses, involving a misdemeanor described in division (A)(1)(a) 1605
of section 109.572 of the Revised Code, or involving an 1606
adjudication in a case in which a child under eighteen years of 1607
age was alleged to be a delinquent child for committing an act 1608
that would be a felony or an offense of violence if committed by 1609
an adult. The clerk of the court of common pleas shall include in 1610
the report and summary the clerk sends under this division all 1611
information described in divisions (A)(2)(a) to (f) of this 1612
section regarding a case before the court of appeals that is 1613
served by that clerk. The summary shall be written on the standard 1614
forms furnished by the superintendent pursuant to division (B) of 1615
this section and shall include the following information: 1616

(a) The incident tracking number contained on the standard 1617
forms furnished by the superintendent pursuant to division (B) of 1618
this section; 1619

(b) The style and number of the case; 1620

(c) The date of arrest; 1621

(d) The date that the person was convicted of or pleaded 1622
guilty to the offense, adjudicated a delinquent child for 1623
committing the act that would be a felony or an offense of 1624
violence if committed by an adult, found not guilty of the 1625
offense, or found not to be a delinquent child for committing an 1626
act that would be a felony or an offense of violence if committed 1627
by an adult, the date of an entry dismissing the charge, an entry 1628
declaring a mistrial of the offense in which the person is 1629

discharged, an entry finding that the person or child is not 1630
competent to stand trial, or an entry of a nolle prosequi, or the 1631
date of any other determination that constitutes final resolution 1632
of the case; 1633

(e) A statement of the original charge with the section of 1634
the Revised Code that was alleged to be violated; 1635

(f) If the person or child was convicted, pleaded guilty, or 1636
was adjudicated a delinquent child, the sentence or terms of 1637
probation imposed or any other disposition of the offender or the 1638
delinquent child. 1639

If the offense involved the disarming of a law enforcement 1640
officer or an attempt to disarm a law enforcement officer, the 1641
clerk shall clearly state that fact in the summary, and the 1642
superintendent shall ensure that a clear statement of that fact is 1643
placed in the bureau's records. 1644

(3) The superintendent shall cooperate with and assist 1645
sheriffs, chiefs of police, and other law enforcement officers in 1646
the establishment of a complete system of criminal identification 1647
and in obtaining fingerprints and other means of identification of 1648
all persons arrested on a charge of a felony, any crime 1649
constituting a misdemeanor on the first offense and a felony on 1650
subsequent offenses, or a misdemeanor described in division 1651
(A)(1)(a) of section 109.572 of the Revised Code and of all 1652
children under eighteen years of age arrested or otherwise taken 1653
into custody for committing an act that would be a felony or an 1654
offense of violence if committed by an adult. The superintendent 1655
also shall file for record the fingerprint impressions of all 1656
persons confined in a county, multicounty, municipal, 1657
municipal-county, or multicounty-municipal jail or workhouse, 1658
community-based correctional facility, halfway house, alternative 1659
residential facility, or state correctional institution for the 1660
violation of state laws and of all children under eighteen years 1661

of age who are confined in a county, multicounty, municipal, 1662
municipal-county, or multicounty-municipal jail or workhouse, 1663
community-based correctional facility, halfway house, alternative 1664
residential facility, or state correctional institution or in any 1665
facility for delinquent children for committing an act that would 1666
be a felony or an offense of violence if committed by an adult, 1667
and any other information that the superintendent may receive from 1668
law enforcement officials of the state and its political 1669
subdivisions. 1670

(4) The superintendent shall carry out Chapter 2950. of the 1671
Revised Code with respect to the registration of persons who are 1672
convicted of or plead guilty to a sexually oriented offense and 1673
with respect to all other duties imposed on the bureau under that 1674
chapter. 1675

(B) The superintendent shall prepare and furnish to every 1676
county, multicounty, municipal, municipal-county, or 1677
multicounty-municipal jail or workhouse, community-based 1678
correctional facility, halfway house, alternative residential 1679
facility, or state correctional institution and to every clerk of 1680
a court in this state specified in division (A)(2) of this section 1681
standard forms for reporting the information required under 1682
division (A) of this section. The standard forms that the 1683
superintendent prepares pursuant to this division may be in a 1684
tangible format, in an electronic format, or in both tangible 1685
formats and electronic formats. 1686

(C) The superintendent may operate a center for electronic, 1687
automated, or other data processing for the storage and retrieval 1688
of information, data, and statistics pertaining to criminals and 1689
to children under eighteen years of age who are adjudicated 1690
delinquent children for committing an act that would be a felony 1691
or an offense of violence if committed by an adult, criminal 1692
activity, crime prevention, law enforcement, and criminal justice, 1693

and may establish and operate a statewide communications network 1694
to gather and disseminate information, data, and statistics for 1695
the use of law enforcement agencies. The superintendent may 1696
gather, store, retrieve, and disseminate information, data, and 1697
statistics that pertain to children who are under eighteen years 1698
of age and that are gathered pursuant to sections 109.57 to 109.61 1699
of the Revised Code together with information, data, and 1700
statistics that pertain to adults and that are gathered pursuant 1701
to those sections. 1702

(D) The information and materials furnished to the 1703
superintendent pursuant to division (A) of this section and 1704
information and materials furnished to any board or person under 1705
division (F) or (G) of this section are not public records under 1706
section 149.43 of the Revised Code. 1707

(E) The attorney general shall adopt rules, in accordance 1708
with Chapter 119. of the Revised Code, setting forth the procedure 1709
by which a person may receive or release information gathered by 1710
the superintendent pursuant to division (A) of this section. A 1711
reasonable fee may be charged for this service. If a temporary 1712
employment service submits a request for a determination of 1713
whether a person the service plans to refer to an employment 1714
position has been convicted of or pleaded guilty to an offense 1715
listed in division (A)(1), (3), (4), ~~or~~ (5), or (6) of section 1716
109.572 of the Revised Code, the request shall be treated as a 1717
single request and only one fee shall be charged. 1718

(F)(1) As used in division (F)(2) of this section, "head 1719
start agency" means an entity in this state that has been approved 1720
to be an agency for purposes of subchapter II of the "Community 1721
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1722
as amended. 1723

(2)(a) In addition to or in conjunction with any request that 1724
is required to be made under section 109.572, 2151.86, 3301.32, 1725

3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 1726
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 1727
education of any school district; the director of mental 1728
retardation and developmental disabilities; any county board of 1729
mental retardation and developmental disabilities; any entity 1730
under contract with a county board of mental retardation and 1731
developmental disabilities; the chief administrator of any 1732
chartered nonpublic school; the chief administrator of any home 1733
health agency; the chief administrator of or person operating any 1734
child day-care center, type A family day-care home, or type B 1735
family day-care home licensed or certified under Chapter 5104. of 1736
the Revised Code; the administrator of any type C family day-care 1737
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1738
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1739
general assembly; the chief administrator of any head start 1740
agency; or the executive director of a public children services 1741
agency may request that the superintendent of the bureau 1742
investigate and determine, with respect to any individual who has 1743
applied for employment in any position after October 2, 1989, or 1744
any individual wishing to apply for employment with a board of 1745
education may request, with regard to the individual, whether the 1746
bureau has any information gathered under division (A) of this 1747
section that pertains to that individual. On receipt of the 1748
request, the superintendent shall determine whether that 1749
information exists and, upon request of the person, board, or 1750
entity requesting information, also shall request from the federal 1751
bureau of investigation any criminal records it has pertaining to 1752
that individual. Within thirty days of the date that the 1753
superintendent receives a request, the superintendent shall send 1754
to the board, entity, or person a report of any information that 1755
the superintendent determines exists, including information 1756
contained in records that have been sealed under section 2953.32 1757
of the Revised Code, and, within thirty days of its receipt, shall 1758

send the board, entity, or person a report of any information 1759
received from the federal bureau of investigation, other than 1760
information the dissemination of which is prohibited by federal 1761
law. 1762

(b) When a board of education is required to receive 1763
information under this section as a prerequisite to employment of 1764
an individual pursuant to section 3319.39 of the Revised Code, it 1765
may accept a certified copy of records that were issued by the 1766
bureau of criminal identification and investigation and that are 1767
presented by an individual applying for employment with the 1768
district in lieu of requesting that information itself. In such a 1769
case, the board shall accept the certified copy issued by the 1770
bureau in order to make a photocopy of it for that individual's 1771
employment application documents and shall return the certified 1772
copy to the individual. In a case of that nature, a district only 1773
shall accept a certified copy of records of that nature within one 1774
year after the date of their issuance by the bureau. 1775

(3) The state board of education may request, with respect to 1776
any individual who has applied for employment after October 2, 1777
1989, in any position with the state board or the department of 1778
education, any information that a school district board of 1779
education is authorized to request under division (F)(2) of this 1780
section, and the superintendent of the bureau shall proceed as if 1781
the request has been received from a school district board of 1782
education under division (F)(2) of this section. 1783

(4) When the superintendent of the bureau receives a request 1784
for information that is authorized under section 3319.291 of the 1785
Revised Code, the superintendent shall proceed as if the request 1786
has been received from a school district board of education under 1787
division (F)(2) of this section. 1788

(5) When a recipient of an OhioReads classroom or community 1789
reading grant paid under section 3301.86 or 3301.87 of the Revised 1790

Code or an entity approved by the OhioReads council requests, with 1791
respect to any individual who applies to participate in providing 1792
any program or service through an entity approved by the OhioReads 1793
council or funded in whole or in part by the grant, the 1794
information that a school district board of education is 1795
authorized to request under division (F)(2)(a) of this section, 1796
the superintendent of the bureau shall proceed as if the request 1797
has been received from a school district board of education under 1798
division (F)(2)(a) of this section. 1799

(G) In addition to or in conjunction with any request that is 1800
required to be made under section 173.41, 3701.881, 3712.09, 1801
3721.121, or 3722.151 of the Revised Code with respect to an 1802
individual who has applied for employment in a position that 1803
involves providing direct care to an older adult, the chief 1804
administrator of a PASSPORT agency that provides services through 1805
the PASSPORT program created under section 173.40 of the Revised 1806
Code, home health agency, hospice care program, home licensed 1807
under Chapter 3721. of the Revised Code, adult day-care program 1808
operated pursuant to rules adopted under section 3721.04 of the 1809
Revised Code, or adult care facility may request that the 1810
superintendent of the bureau investigate and determine, with 1811
respect to any individual who has applied after January 27, 1997, 1812
for employment in a position that does not involve providing 1813
direct care to an older adult, whether the bureau has any 1814
information gathered under division (A) of this section that 1815
pertains to that individual. On receipt of the request, the 1816
superintendent shall determine whether that information exists 1817
and, on request of the administrator requesting information, shall 1818
also request from the federal bureau of investigation any criminal 1819
records it has pertaining to that individual. Within thirty days 1820
of the date a request is received, the superintendent shall send 1821
to the administrator a report of any information determined to 1822
exist, including information contained in records that have been 1823

sealed under section 2953.32 of the Revised Code, and, within 1824
thirty days of its receipt, shall send the administrator a report 1825
of any information received from the federal bureau of 1826
investigation, other than information the dissemination of which 1827
is prohibited by federal law. 1828

(H) Information obtained by a board, administrator, or other 1829
person under this section is confidential and shall not be 1830
released or disseminated. 1831

(I) The superintendent may charge a reasonable fee for 1832
providing information or criminal records under division (F)(2) or 1833
(G) of this section. 1834

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1835
section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, 1836
or 5153.111 of the Revised Code, a completed form prescribed 1837
pursuant to division (C)(1) of this section, and a set of 1838
fingerprint impressions obtained in the manner described in 1839
division (C)(2) of this section, the superintendent of the bureau 1840
of criminal identification and investigation shall conduct a 1841
criminal records check in the manner described in division (B) of 1842
this section to determine whether any information exists that 1843
indicates that the person who is the subject of the request 1844
previously has been convicted of or pleaded guilty to any of the 1845
following: 1846

(a) A violation of section 2903.01, 2903.02, 2903.03, 1847
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1848
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1849
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1850
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1851
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1852
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1853
2925.06, or 3716.11 of the Revised Code, felonious sexual 1854

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, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of 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 (A)(1)(a) of this section.

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

(a) A violation of section 2903.01, 2903.02, 2903.03,

2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1887
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1888
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1889
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1890
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1891
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 1892
3716.11 of the Revised Code; 1893

(b) An existing or former municipal ordinance or law of this 1894
state, any other state, or the United States that is substantially 1895
equivalent to any of the offenses listed in division (A)(2)(a) of 1896
this section. 1897

(3) On receipt of a request pursuant to section 173.41, 1898
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 1899
form prescribed pursuant to division (C)(1) of this section, and a 1900
set of fingerprint impressions obtained in the manner described in 1901
division (C)(2) of this section, the superintendent of the bureau 1902
of criminal identification and investigation shall conduct a 1903
criminal records check with respect to any person who has applied 1904
for employment in a position that involves providing direct care 1905
to an older adult. The superintendent shall conduct the criminal 1906
records check in the manner described in division (B) of this 1907
section to determine whether any information exists that indicates 1908
that the person who is the subject of the request previously has 1909
been convicted of or pleaded guilty to any of the following: 1910

(a) A violation of section 2903.01, 2903.02, 2903.03, 1911
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1912
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1913
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1914
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1915
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1916
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1917
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1918

2925.22, 2925.23, or 3716.11 of the Revised Code; 1919

(b) An existing or former law of this state, any other state, 1920
or the United States that is substantially equivalent to any of 1921
the offenses listed in division (A)(3)(a) of this section. 1922

(4) On receipt of a request pursuant to section 3701.881 of 1923
the Revised Code with respect to an applicant for employment with 1924
a home health agency as a person responsible for the care, 1925
custody, or control of a child, a completed form prescribed 1926
pursuant to division (C)(1) of this section, and a set of 1927
fingerprint impressions obtained in the manner described in 1928
division (C)(2) of this section, the superintendent of the bureau 1929
of criminal identification and investigation shall conduct a 1930
criminal records check. The superintendent shall conduct the 1931
criminal records check in the manner described in division (B) of 1932
this section to determine whether any information exists that 1933
indicates that the person who is the subject of the request 1934
previously has been convicted of or pleaded guilty to any of the 1935
following: 1936

(a) A violation of section 2903.01, 2903.02, 2903.03, 1937
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1938
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1939
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1940
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1941
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1942
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1943
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1944
violation of section 2925.11 of the Revised Code that is not a 1945
minor drug possession offense; 1946

(b) An existing or former law of this state, any other state, 1947
or the United States that is substantially equivalent to any of 1948
the offenses listed in division (A)(4)(a) of this section. 1949

(5) On receipt of a request pursuant to section 5111.95 or 5111.96 of the Revised Code with respect to an applicant for employment with waiver agencies participating in department of job and family services administered waivers or independent providers in department administered home and community-based service programs in a position that involves providing home and community-based waiver services to consumers with disabilities, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) 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 1982
prior to that date; 1983

(b) An existing or former law of this state, any other state, 1984
or the United States that is substantially equivalent to any of 1985
the offenses listed in division (A)(5)(a) of this section. 1986

(6) On receipt of a request pursuant to section 3701.881 of 1987
the Revised Code with respect to an applicant for employment with 1988
a home health agency in a position that involves providing direct 1989
care to an older adult, a completed form prescribed pursuant to 1990
division (C)(1) of this section, and a set of fingerprint 1991
impressions obtained in the manner described in division (C)(2) of 1992
this section, the superintendent of the bureau of criminal 1993
identification and investigation shall conduct a criminal records 1994
check. The superintendent shall conduct the criminal records check 1995
in the manner described in division (B) of this section to 1996
determine whether any information exists that indicates that the 1997
person who is the subject of the request previously has been 1998
convicted of or pleaded guilty to any of the following: 1999

(a) A violation of section 2903.01, 2903.02, 2903.03, 2000
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2001
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2002
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2003
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2004
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2005
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2006
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2007
2925.22, 2925.23, or 3716.11 of the Revised Code; 2008

(b) An existing or former law of this state, any other state, 2009
or the United States that is substantially equivalent to any of 2010
the offenses listed in division (A)~~(5)~~(6)(a) of this section. 2011

~~(6)~~(7) When conducting a criminal records check upon a 2012

request pursuant to section 3319.39 of the Revised Code for an 2013
applicant who is a teacher, in addition to the determination made 2014
under division (A)(1) of this section, the superintendent shall 2015
determine whether any information exists that indicates that the 2016
person who is the subject of the request previously has been 2017
convicted of or pleaded guilty to any offense specified in section 2018
3319.31 of the Revised Code. 2019

~~(7)~~(8) When conducting a criminal records check on a request 2020
pursuant to section 2151.86 of the Revised Code for a person who 2021
is a prospective foster caregiver or who is eighteen years old or 2022
older and resides in the home of a prospective foster caregiver, 2023
the superintendent, in addition to the determination made under 2024
division (A)(1) of this section, shall determine whether any 2025
information exists that indicates that the person has been 2026
convicted of or pleaded guilty to a violation of: 2027

(a) Section 2909.02 or 2909.03 of the Revised Code; 2028

(b) An existing or former law of this state, any other state, 2029
or the United States that is substantially equivalent to section 2030
2909.02 or 2909.03 of the Revised Code. 2031

~~(8)~~(9) Not later than thirty days after the date the 2032
superintendent receives the request, completed form, and 2033
fingerprint impressions, the superintendent shall send the person, 2034
board, or entity that made the request any information, other than 2035
information the dissemination of which is prohibited by federal 2036
law, the superintendent determines exists with respect to the 2037
person who is the subject of the request that indicates that the 2038
person previously has been convicted of or pleaded guilty to any 2039
offense listed or described in division (A)(1), (2), (3), (4), 2040
(5), (6), ~~or (7)~~, or (8) of this section, as appropriate. The 2041
superintendent shall send the person, board, or entity that made 2042
the request a copy of the list of offenses specified in division 2043
(A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, 2044

as appropriate. If the request was made under section 3701.881 of 2045
the Revised Code with regard to an applicant who may be both 2046
responsible for the care, custody, or control of a child and 2047
involved in providing direct care to an older adult, the 2048
superintendent shall provide a list of the offenses specified in 2049
divisions (A)(4) and ~~(5)~~(6) of this section. 2050

(B) The superintendent shall conduct any criminal records 2051
check requested under section 173.41, 2151.86, 3301.32, 3301.541, 2052
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 2053
5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 2054
5153.111 of the Revised Code as follows: 2055

(1) The superintendent shall review or cause to be reviewed 2056
any relevant information gathered and compiled by the bureau under 2057
division (A) of section 109.57 of the Revised Code that relates to 2058
the person who is the subject of the request, including any 2059
relevant information contained in records that have been sealed 2060
under section 2953.32 of the Revised Code; 2061

(2) If the request received by the superintendent asks for 2062
information from the federal bureau of investigation, the 2063
superintendent shall request from the federal bureau of 2064
investigation any information it has with respect to the person 2065
who is the subject of the request and shall review or cause to be 2066
reviewed any information the superintendent receives from that 2067
bureau. 2068

(C)(1) The superintendent shall prescribe a form to obtain 2069
the information necessary to conduct a criminal records check from 2070
any person for whom a criminal records check is required by 2071
section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2072
3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2073
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 2074
form that the superintendent prescribes pursuant to this division 2075
may be in a tangible format, in an electronic format, or in both 2076

tangible and electronic formats. 2077

(2) The superintendent shall prescribe standard impression 2078
sheets to obtain the fingerprint impressions of any person for 2079
whom a criminal records check is required by section 173.41, 2080
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 2081
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 2082
5126.281, or 5153.111 of the Revised Code. Any person for whom a 2083
records check is required by any of those sections shall obtain 2084
the fingerprint impressions at a county sheriff's office, 2085
municipal police department, or any other entity with the ability 2086
to make fingerprint impressions on the standard impression sheets 2087
prescribed by the superintendent. The office, department, or 2088
entity may charge the person a reasonable fee for making the 2089
impressions. The standard impression sheets the superintendent 2090
prescribes pursuant to this division may be in a tangible format, 2091
in an electronic format, or in both tangible and electronic 2092
formats. 2093

(3) Subject to division (D) of this section, the 2094
superintendent shall prescribe and charge a reasonable fee for 2095
providing a criminal records check requested under section 173.41, 2096
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 2097
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 2098
5126.281, or 5153.111 of the Revised Code. The person making a 2099
criminal records request under section 173.41, 2151.86, 3301.32, 2100
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 2101
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 2102
or 5153.111 of the Revised Code shall pay the fee prescribed 2103
pursuant to this division. A person making a request under section 2104
3701.881 of the Revised Code for a criminal records check for an 2105
applicant who may be both responsible for the care, custody, or 2106
control of a child and involved in providing direct care to an 2107
older adult shall pay one fee for the request. 2108

(4) The superintendent of the bureau of criminal 2109
identification and investigation may prescribe methods of 2110
forwarding fingerprint impressions and information necessary to 2111
conduct a criminal records check, which methods shall include, but 2112
not be limited to, an electronic method. 2113

(D) A determination whether any information exists that 2114
indicates that a person previously has been convicted of or 2115
pleaded guilty to any offense listed or described in division 2116
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 2117
(b), (A)(5)(a) or (b), (A)(6), ~~or~~ (A)(7)(a) or (b), or (A)(8)(a) 2118
or (b) of this section that is made by the superintendent with 2119
respect to information considered in a criminal records check in 2120
accordance with this section is valid for the person who is the 2121
subject of the criminal records check for a period of one year 2122
from the date upon which the superintendent makes the 2123
determination. During the period in which the determination in 2124
regard to a person is valid, if another request under this section 2125
is made for a criminal records check for that person, the 2126
superintendent shall provide the information that is the basis for 2127
the superintendent's initial determination at a lower fee than the 2128
fee prescribed for the initial criminal records check. 2129

(E) As used in this section: 2130

(1) "Criminal records check" means any criminal records check 2131
conducted by the superintendent of the bureau of criminal 2132
identification and investigation in accordance with division (B) 2133
of this section. 2134

(2) "Home and community-based waiver services" and "waiver 2135
agency" have the same meanings as in section 5111.95 of the 2136
Revised Code. 2137

(3) "Independent provider" has the same meaning as in section 2138
5111.96 of the Revised Code. 2139

(4) "Minor drug possession offense" has the same meaning as 2140
in section 2925.01 of the Revised Code. 2141

~~(3)~~(5) "Older adult" means a person age sixty or older. 2142

Sec. 117.45. (A) The auditor of state shall draw warrants 2143
against the treasurer of state pursuant to all requests for 2144
payment that the director of budget and management has approved 2145
under section 126.07 of the Revised Code. 2146

(B) Unless the director of job and family services has 2147
provided for the making of payments by electronic benefit 2148
transfer, if a financial institution and account have been 2149
designated by the participant or recipient, payment by the auditor 2150
of state to a participant in the Ohio works first program pursuant 2151
to Chapter 5107. of the Revised Code or a recipient of disability 2152
financial assistance pursuant to Chapter 5115. of the Revised Code 2153
shall be made by direct deposit to the account of the participant 2154
or recipient in the financial institution. Payment by the auditor 2155
of state to a recipient of benefits distributed through the medium 2156
of electronic benefit transfer pursuant to section 5101.33 of the 2157
Revised Code shall be by electronic benefit transfer. Payment by 2158
the auditor of state as compensation to an employee of the state 2159
who has, pursuant to section 124.151 of the Revised Code, 2160
designated a financial institution and account for the direct 2161
deposit of such payments shall be made by direct deposit to the 2162
account of the employee. Payment to any other payee who has 2163
designated a financial institution and account for the direct 2164
deposit of such payment may be made by direct deposit to the 2165
account of the payee in the financial institution as provided in 2166
section 9.37 of the Revised Code. The auditor of state shall 2167
contract with an authorized financial institution for the services 2168
necessary to make direct deposits or electronic benefit transfers 2169
under this division and draw lump sum warrants payable to that 2170

institution in the amount to be transferred. Accounts maintained 2171
by the auditor of state or the auditor of state's agent in a 2172
financial institution for the purpose of effectuating payment by 2173
direct deposit or electronic benefit transfer shall be maintained 2174
in accordance with section 135.18 of the Revised Code. 2175

(C) All other payments from the state treasury shall be made 2176
by paper warrants or by direct deposit payable to the respective 2177
payees. The auditor of state may mail the paper warrants to the 2178
respective payees or distribute them through other state agencies, 2179
whichever the auditor of state determines to be the better 2180
procedure. 2181

(D) If the average per transaction cost the auditor of state 2182
incurs in making direct deposits for a state agency exceeds the 2183
average per transaction cost the auditor of state incurs in 2184
drawing paper warrants for all public offices during the same 2185
period of time, the auditor of state may certify the difference in 2186
cost and the number of direct deposits for the agency to the 2187
director of administrative services. The director shall reimburse 2188
the auditor of state for such additional costs and add the amount 2189
to the processing charge assessed upon the state agency. 2190

Sec. 121.04. Offices are created within the several 2191
departments as follows: 2192

- In the department of commerce: 2193
- Commissioner of securities; 2194
 - Superintendent of real estate and professional 2195
licensing;
 - Superintendent of financial institutions; 2196
 - ~~Fire marshal;~~ 2197
 - Superintendent of labor and worker safety; 2198
 - Beginning on July 1, 1997, 2199
 - Superintendent of liquor control; 2200

Superintendent of industrial compliance.	2201
In the department of administrative services:	2202
State architect and engineer;	2203
Equal employment opportunity coordinator.	2204
In the department of agriculture:	2205
Chiefs of divisions as follows:	2206
Administration;	2207
Animal industry;	2208
Dairy;	2209
Food safety;	2210
Plant industry;	2211
Markets;	2212
Meat inspection;	2213
Consumer analytical laboratory;	2214
Amusement ride safety;	2215
Enforcement;	2216
Weights and measures.	2217
In the department of natural resources:	2218
Chiefs of divisions as follows:	2219
Water;	2220
Mineral resources management;	2221
Forestry;	2222
Natural areas and preserves;	2223
Wildlife;	2224
Geological survey;	2225
Parks and recreation;	2226
Watercraft;	2227
Recycling and litter prevention;	2228
Civilian conservation;	2229
Soil and water conservation;	2230
Real estate and land management;	2231

Engineering. 2232

In the department of insurance: 2233

Deputy superintendent of insurance; 2234

Assistant superintendent of insurance, technical; 2235

Assistant superintendent of insurance, administrative; 2236

Assistant superintendent of insurance, research. 2237

Sec. 121.08. (A) There is hereby created in the department of 2238
commerce the position of deputy director of administration. This 2239
officer shall be appointed by the director of commerce, serve 2240
under the director's direction, supervision, and control, perform 2241
such duties as the director prescribes, and hold office during the 2242
director's pleasure. The director of commerce may designate an 2243
assistant director of commerce to serve as the deputy director of 2244
administration. The deputy director of administration shall 2245
perform such duties as are prescribed by the director of commerce 2246
in supervising the activities of the division of administration of 2247
the department of commerce. 2248

(B) Except as provided in section 121.07 of the Revised Code, 2249
the department of commerce shall have all powers and perform all 2250
duties vested in the deputy director of administration, ~~the state~~ 2251
~~fire marshal,~~ the superintendent of financial institutions, the 2252
superintendent of real estate and professional licensing, the 2253
superintendent of liquor control, the superintendent of the 2254
division of industrial compliance, the superintendent of labor and 2255
worker safety, and the commissioner of securities, and shall have 2256
all powers and perform all duties vested by law in all officers, 2257
deputies, and employees of such offices. Except as provided in 2258
section 121.07 of the Revised Code, wherever powers are conferred 2259
or duties imposed upon any of such officers, such powers and 2260
duties shall be construed as vested in the department of commerce. 2261

(C)(1) There is hereby created in the department of commerce 2262

a division of financial institutions, which shall have all powers 2263
and perform all duties vested by law in the superintendent of 2264
financial institutions. Wherever powers are conferred or duties 2265
imposed upon the superintendent of financial institutions, such 2266
powers and duties shall be construed as vested in the division of 2267
financial institutions. The division of financial institutions 2268
shall be administered by a superintendent of financial 2269
institutions. 2270

(2) All provisions of law governing the superintendent of 2271
financial institutions shall apply to and govern the 2272
superintendent of financial institutions provided for in this 2273
section; all authority vested by law in the superintendent of 2274
financial institutions with respect to the management of the 2275
division of financial institutions shall be construed as vested in 2276
the superintendent of financial institutions created by this 2277
section with respect to the division of financial institutions 2278
provided for in this section; and all rights, privileges, and 2279
emoluments conferred by law upon the superintendent of financial 2280
institutions shall be construed as conferred upon the 2281
superintendent of financial institutions as head of the division 2282
of financial institutions. The director of commerce shall not 2283
transfer from the division of financial institutions any of the 2284
functions specified in division (C)(2) of this section. 2285

(D) Beginning on July 1, 1997, there is hereby created in the 2286
department of commerce a division of liquor control, which shall 2287
have all powers and perform all duties vested by law in the 2288
superintendent of liquor control. Wherever powers are conferred or 2289
duties are imposed upon the superintendent of liquor control, 2290
those powers and duties shall be construed as vested in the 2291
division of liquor control. The division of liquor control shall 2292
be administered by a superintendent of liquor control. 2293

(E) The director of commerce shall not be interested, 2294

directly or indirectly, in any firm or corporation which is a 2295
dealer in securities as defined in sections 1707.01 and 1707.14 of 2296
the Revised Code, or in any firm or corporation licensed under 2297
sections 1321.01 to 1321.19 of the Revised Code. 2298

(F) The director of commerce shall not have any official 2299
connection with a savings and loan association, a savings bank, a 2300
bank, a bank holding company, a savings and loan association 2301
holding company, a consumer finance company, or a credit union 2302
that is under the supervision of the division of financial 2303
institutions, or a subsidiary of any of the preceding entities, or 2304
be interested in the business thereof. 2305

(G) There is hereby created in the state treasury the 2306
division of administration fund. The fund shall receive 2307
assessments on the operating funds of the department of commerce 2308
in accordance with procedures prescribed by the director of 2309
commerce and approved by the director of budget and management. 2310
All operating expenses of the division of administration shall be 2311
paid from the division of administration fund. 2312

(H) There is hereby created in the department of commerce a 2313
division of real estate and professional licensing, which shall be 2314
under the control and supervision of the director of commerce. The 2315
division of real estate and professional licensing shall be 2316
administered by a superintendent of real estate and professional 2317
licensing. The superintendent of real estate and professional 2318
licensing shall exercise the powers and perform the functions and 2319
duties delegated to the superintendent under Chapters 4707., 2320
4735., 4749., 4763., and 4767. of the Revised Code. 2321

(I) There is hereby created in the department of commerce a 2322
division of labor and worker safety, which shall have all powers 2323
and perform all duties vested by law in the superintendent of 2324
labor and worker safety. Wherever powers are conferred or duties 2325
imposed upon the superintendent of labor and worker safety, such 2326

powers and duties shall be construed as vested in the division of 2327
labor and worker safety. The division of labor and worker safety 2328
is under the control and supervision of the director of commerce, 2329
and administered by a superintendent of labor and worker safety. 2330
The superintendent of labor and worker safety shall exercise the 2331
powers and perform the duties delegated to the superintendent by 2332
the director under Chapters ~~4709.~~ 4109., ~~4711.~~ 4111., ~~4715.~~ 4115., 2333
and ~~4767.~~ 4167. of the Revised Code. 2334

Sec. 121.084. (A) All moneys collected under sections 2335
~~1333.96,~~ 3783.05, 3791.07, 4104.07, 4104.18, ~~4104.42,~~ 4104.44, 2336
~~4104.45,~~ 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the 2337
Revised Code, and any other moneys collected by the division of 2338
industrial compliance shall be paid into the state treasury to the 2339
credit of the industrial compliance operating fund, which is 2340
hereby created. The department of commerce shall use the moneys in 2341
the fund for paying the operating expenses of the division and the 2342
administrative assessment described in division (B) of this 2343
section. 2344

(B) The director of commerce, with the approval of the 2345
director of budget and management, shall prescribe procedures for 2346
assessing the industrial compliance operating fund a proportionate 2347
share of the administrative costs of the department of commerce. 2348
The assessment shall be made in accordance with those procedures 2349
and be paid from the industrial compliance operating fund to the 2350
division of administration fund created in section 121.08 of the 2351
Revised Code. 2352

Sec. 121.62. (A) Each executive agency lobbyist and each 2353
employer shall file with the joint legislative ethics committee, 2354
within ten days following the engagement of an executive agency 2355
lobbyist, an initial registration statement showing all of the 2356
following: 2357

(1) The name, business address, and occupation of the executive agency lobbyist; 2358
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(2) The name and business address of the employer or of the real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. For the purposes of division (A) of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed. 2360
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(3) A brief description of the executive agency decision to which the engagement relates; 2370
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(4) The name of the executive agency or agencies to which the engagement relates. 2372
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(B) In addition to the initial registration statement required by division (A) of this section, each executive agency lobbyist and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific executive agency decisions that the lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 121.63 of the Revised Code and any details of financial transactions required to be filed by section 121.64 of the Revised Code. 2374
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(C) If an executive agency lobbyist is engaged by more than one employer, the lobbyist shall file a separate initial and 2387
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updated registration statement for each engagement. If an employer 2389
engages more than one executive agency lobbyist, the employer need 2390
file only one updated registration statement under division (B) of 2391
this section, which shall contain the information required by 2392
division (B) of this section regarding all of the executive agency 2393
lobbyists engaged by the employer. 2394

(D)(1) A change in any information required by division 2395
(A)(1), (2), or (B) of this section shall be reflected in the next 2396
updated registration statement filed under division (B) of this 2397
section. 2398

(2) Within thirty days following the termination of an 2399
engagement, the executive agency lobbyist who was employed under 2400
the engagement shall send written notification of the termination 2401
to the joint committee. 2402

(E) A registration fee of ~~ten~~ twenty-five dollars shall be 2403
charged for filing an initial registration statement. All money 2404
collected from this fee shall be deposited into the ~~state treasury~~ 2405
~~to the credit of the joint legislative ethics committee fund~~ 2406
~~created under section 101.34 of the Revised Code~~ general revenue 2407
fund of the state. 2408

(F) Upon registration pursuant to this section, an executive 2409
agency lobbyist shall be issued a card by the joint committee 2410
showing that the lobbyist is registered. The registration card and 2411
the executive agency lobbyist's registration shall be valid from 2412
the date of their issuance until the thirty-first day of January 2413
of the year following the year in which the initial registration 2414
was filed. 2415

(G) The executive director of the joint committee shall be 2416
responsible for reviewing each registration statement filed with 2417
the joint committee under this section and for determining whether 2418
the statement contains all of the required information. If the 2419

joint committee determines that the registration statement does 2420
not contain all of the required information or that an executive 2421
agency lobbyist or employer has failed to file a registration 2422
statement, the joint committee shall send written notification by 2423
certified mail to the person who filed the registration statement 2424
regarding the deficiency in the statement or to the person who 2425
failed to file the registration statement regarding the failure. 2426
Any person so notified by the joint committee shall, not later 2427
than fifteen days after receiving the notice, file a registration 2428
statement or an amended registration statement that contains all 2429
of the required information. If any person who receives a notice 2430
under this division fails to file a registration statement or such 2431
an amended registration statement within this fifteen-day period, 2432
the joint committee shall notify the attorney general, who may 2433
take appropriate action as authorized by section 121.69 of the 2434
Revised Code. 2435

If the joint committee notifies the attorney general pursuant 2436
to this division, the joint committee shall also notify each 2437
elected executive official and the director of each department 2438
created under section 121.02 of the Revised Code of the pending 2439
investigation. 2440

(H) On or before the fifteenth day of March of each year, the 2441
joint committee shall, in the manner and form that it determines, 2442
publish a report containing statistical information on the 2443
registration statements filed with it under this section during 2444
the preceding year. 2445

(I) If an employer who engages an executive agency lobbyist 2446
is the recipient of a contract, grant, lease, or other financial 2447
arrangement pursuant to which funds of the state or of an 2448
executive agency are distributed or allocated, the executive 2449
agency or any aggrieved party may consider the failure of the 2450
employer or the executive agency lobbyist to comply with this 2451

section as a breach of a material condition of the contract, 2452
grant, lease, or other financial arrangement. 2453

(J) Executive agency officials may require certification from 2454
any person seeking the award of a contract, grant, lease, or 2455
financial arrangement that the person and ~~his~~ the person's 2456
employer are in compliance with this section. 2457

Sec. 122.011. (A) The department of development shall develop 2458
and promote plans and programs designed to assure that state 2459
resources are efficiently used, economic growth is properly 2460
balanced, community growth is developed in an orderly manner, and 2461
local governments are coordinated with each other and the state, 2462
and for such purposes may do all of the following: 2463

(1) Serve as a clearinghouse for information, data, and other 2464
materials that may be helpful or necessary to persons or local 2465
governments, as provided in section 122.07 of the Revised Code; 2466

(2) Prepare and activate plans for the retention, 2467
development, expansion, and use of the resources and commerce of 2468
the state, as provided in section 122.04 of the Revised Code; 2469

(3) Assist and cooperate with federal, state, and local 2470
governments and agencies of federal, state, and local governments 2471
in the coordination of programs to carry out the functions and 2472
duties of the department; 2473

(4) Encourage and foster research and development activities, 2474
conduct studies related to the solution of community problems, and 2475
develop recommendations for administrative or legislative actions, 2476
as provided in section 122.03 of the Revised Code; 2477

(5) Serve as the economic and community development planning 2478
agency, which shall prepare and recommend plans and programs for 2479
the orderly growth and development of this state and which shall 2480
provide planning assistance, as provided in section 122.06 of the 2481

Revised Code;	2482
(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;	2483 2484 2485 2486 2487 2488 2489
(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department;	2490 2491
(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;	2492 2493 2494 2495
(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 operations of regional or local government, and conduct other studies of legal provisions that affect problems related to carrying out the purposes of this section;	2496 2497 2498 2499 2500 2501 2502 2503
(10) Appoint, with the approval of the governor, technical and other advisory councils as it considers appropriate, as provided in section 122.09 of the Revised Code;	2504 2505 2506
(11) Create and operate a division of community development to develop and administer programs and activities that are authorized by federal statute or the Revised Code;	2507 2508 2509
(12) Until July 1, 2003 <u>October 15, 2005</u> , establish fees and charges, in consultation with the director of agriculture, for purchasing loans from financial institutions and providing loan	2510 2511 2512

guarantees under the family farm loan program created under 2513
sections 901.80 to 901.83 of the Revised Code; 2514

(13) Provide loan servicing for the loans purchased and loan 2515
guarantees provided under section 901.80 of the Revised Code as 2516
that section existed prior to ~~July 1, 2003~~ October 15, 2005; 2517

(14) Until ~~July 1, 2003~~ October 15, 2005, and upon approval 2518
by the controlling board under division (A)(3) of section 901.82 2519
of the Revised Code of the release of money to be used for 2520
purchasing a loan or providing a loan guarantee, request the 2521
release of that money in accordance with division (B) of section 2522
166.03 of the Revised Code for use for the purposes of the fund 2523
created by section 166.031 of the Revised Code. 2524

(B) The director of development may request the attorney 2525
general to, and the attorney general, in accordance with section 2526
109.02 of the Revised Code, shall bring a civil action in any 2527
court of competent jurisdiction. The director may be sued in the 2528
director's official capacity, in connection with this chapter, in 2529
accordance with Chapter 2743. of the Revised Code. 2530

Sec. 122.04. The department of development shall do the 2531
following: 2532

(A) Maintain a continuing evaluation of the sources available 2533
for the retention, development, or expansion of industrial and 2534
commercial facilities in this state through both public and 2535
private agencies; 2536

(B) Assist public and private agencies in obtaining 2537
information necessary to evaluate the desirability of the 2538
retention, construction, or expansion of industrial and commercial 2539
facilities in the state; 2540

(C) Facilitate contracts between community improvement 2541
corporations organized under Chapter 1724. of the Revised Code or 2542

Ohio development corporations organized under Chapter 1726. of the 2543
Revised Code and industrial and commercial concerns seeking to 2544
locate or expand in ~~Ohio~~ the state; 2545

(D) Upon request, consult with public agencies or authorities 2546
in the preparation of studies of human and economic needs or 2547
advantages relating to economic and community development; 2548

(E) Encourage, promote, and assist trade and commerce between 2549
this state and foreign nations; 2550

(F) Promote and encourage persons to visit and travel within 2551
this state; 2552

(G) Maintain membership in the national association of state 2553
development agencies; 2554

(H) Assist in the development of facilities and technologies 2555
that will lead to increased, environmentally sound use of Ohio 2556
coal; 2557

(I) Promote economic growth in the state. 2558

Sec. 122.08. (A) There is hereby created within the 2559
department of development an office to be known as the office of 2560
small business. The office shall be under the supervision of a 2561
manager appointed by the director of development. 2562

(B) The office shall do all of the following: 2563

(1) Act as liaison between the small business community and 2564
state governmental agencies; 2565

(2) Furnish information and technical assistance to persons 2566
and small businesses concerning the establishment and maintenance 2567
of a small business, and concerning state laws and rules relevant 2568
to the operation of a small business. In conjunction with these 2569
duties, the office shall keep a record of all state agency rules 2570
affecting individuals, small businesses, or small organizations, 2571

as defined in section 121.24 of the Revised Code, and may testify 2572
before the joint committee on agency rule review concerning any 2573
proposed rule affecting individuals, small businesses, or small 2574
organizations. 2575

(3) Prepare and publish the small business register under 2576
section 122.081 of the Revised Code; 2577

(4) Receive complaints from small businesses concerning 2578
governmental activity, compile and analyze those complaints, and 2579
periodically make recommendations to the governor and the general 2580
assembly on changes in state laws or agency rules needed to 2581
eliminate burdensome and unproductive governmental regulation to 2582
improve the economic climate within which small businesses 2583
operate; 2584

(5) Receive complaints or questions from small businesses and 2585
direct ~~such~~ those businesses to the appropriate governmental 2586
agency. If, within a reasonable period of time, a complaint is not 2587
satisfactorily resolved or a question is not satisfactorily 2588
answered, the office shall, on behalf of the small business, make 2589
every effort to secure a satisfactory result. For this purpose, 2590
the office may consult with any state governmental agency and may 2591
make any suggestion or request that seems appropriate. 2592

(6) Utilize, to the maximum extent possible, the printed and 2593
electronic media to disseminate information of current concern and 2594
interest to the small business community and to make known to 2595
small businesses the services available through the office. The 2596
office shall publish such books, pamphlets, and other printed 2597
materials, and shall participate in such trade association 2598
meetings, conventions, fairs, and other meetings involving the 2599
small business community, as the manager considers appropriate. 2600

(7) Prepare for inclusion in the department of development's 2601
annual report to the governor and general assembly, a description 2602

of the activities of the office and a report of the number of 2603
rules affecting individuals, small businesses, and small 2604
organizations that were filed with the office under division 2605
(B)(2) of section 121.24 of the Revised Code, during the preceding 2606
calendar year; 2607

(8) Operate the Ohio ~~one-stop business permit center~~ 2608
first-stop business connection to assist individuals in 2609
identifying and preparing applications for business licenses, 2610
permits, and certificates and to serve as the central public 2611
distributor for all forms, applications, and other information 2612
related to business licensing. Each state agency, board, and 2613
commission shall cooperate in providing assistance, information, 2614
and materials to enable the ~~center~~ connection to perform its 2615
duties under this division ~~(B)(8) of this section.~~ 2616

(C) The office ~~of small business~~ may, upon the request of a 2617
state agency, assist the agency with the preparation of any rule 2618
that will affect individuals, small businesses, or small 2619
organizations. 2620

(D) The director of development shall assign ~~such~~ employees 2621
and furnish ~~such~~ equipment and supplies to the office as the 2622
director considers necessary for the proper performance of the 2623
duties assigned to the office. 2624

Sec. 122.25. (A) In administering the program established 2625
under section 122.24 of the Revised Code, the director of 2626
development shall do all of the following: 2627

(1) Annually designate, by the first day of January of each 2628
year, the entities that constitute the eligible areas in this 2629
state as defined in section 122.23 of the Revised Code; 2630

(2) Inform local governments and others in the state of the 2631
availability of the program and financial assistance established 2632

under sections 122.23 to 122.27 of the Revised Code;	2633
(3) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the thirtieth day of June of each year on the activities carried out under the program during the preceding calendar year. The report shall include the number of loans made that year and the amount and recipient of each loan.	2634 2635 2636 2637 2638 2639 2640
(4) Work in conjunction with conventional lending institutions, local revolving loan funds, private investors, and other private and public financing sources to provide loans or loan guarantees to eligible applicants;	2641 2642 2643 2644
(5) Establish fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions for loans and loan guarantees provided under the loan program created by section 122.24 of the Revised Code;	2645 2646 2647 2648
(6) Require each applicant to demonstrate the suitability of any site for the assistance sought; that the site has been surveyed, has adequate or available utilities, and that there are no zoning restrictions, environmental regulations, or other matters impairing the use of the site for the purpose intended;	2649 2650 2651 2652 2653
(7) Require each applicant to provide a marketing plan and management strategy for the project;	2654 2655
(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:	2656 2657
(a) Forms and procedures by which eligible applicants may apply for assistance;	2658 2659
(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;	2660 2661 2662

(c) Reporting requirements and monitoring procedures;	2663
(d) Guidelines regarding situations in which industrial parks would be considered to compete against one another for the purposes of division (B)(2) of section 122.27 of the Revised Code;	2664 2665 2666
(e) Any other rules necessary to implement and administer the program created by section 122.24 of the Revised Code.	2667 2668
(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements governing the use of any industrial park site receiving assistance under section 122.24 of the Revised Code, such that a certain portion of the site must be used for manufacturing, distribution, high technology, research and development, or other businesses wherein a majority of the product or service produced is exported out of the state.	2669 2670 2671 2672 2673 2674 2675 2676
(C) As a condition to receiving assistance under section 122.24 of the Revised Code, and except as provided in division (D) of this section, an applicant must agree, for a period of five years, not to permit the use of a site that is developed or improved with such assistance to cause the relocation of jobs to that site from elsewhere in Ohio.	2677 2678 2679 2680 2681 2682
(D) A site developed or improved with assistance under section 122.24 of the Revised Code may be the site of jobs relocated from elsewhere in Ohio if the director of development does all of the following:	2683 2684 2685 2686
(1) Makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;	2687 2688 2689 2690
(2) Provides a copy of the determination required by division (D)(1) of this section to the members of the general assembly	2691 2692

whose legislative districts include the site from which the jobs 2693
would be relocated, ~~and to the joint legislative committee on tax~~ 2694
~~incentives;~~ 2695

(3) Determines that the governing body of the area from which 2696
the jobs would be relocated has been notified in writing by the 2697
relocating company of the possible relocation. 2698

(E) The director of development must obtain the approval of 2699
the controlling board for any loan or loan guarantee provided 2700
under sections 122.23 to 122.27 of the Revised Code. 2701

Sec. 122.651. (A) There is hereby created the clean Ohio 2702
council consisting of the director of development or the 2703
director's designee, the director of environmental protection or 2704
the director's designee, the lieutenant governor or the lieutenant 2705
governor's designee, the director of the Ohio public works 2706
commission as a nonvoting, ex officio member, one member of the 2707
majority party of the senate and one member of the minority party 2708
of the senate to be appointed by the president of the senate, one 2709
member of the majority party of the house of representatives and 2710
one member of the minority party of the house of representatives 2711
to be appointed by the speaker of the house of representatives, 2712
and seven members to be appointed by the governor with the advice 2713
and consent of the senate. Of the members appointed by the 2714
governor, one shall represent the interests of counties, one shall 2715
represent the interests of townships, one shall represent the 2716
interests of municipal corporations, two shall represent the 2717
interests of business and development, and two shall represent 2718
statewide environmental advocacy organizations. The members 2719
appointed by the governor shall reflect the demographic and 2720
economic diversity of the population of the state. Additionally, 2721
the governor's appointments shall represent all areas of the 2722
state. All appointments to the council shall be made not later 2723

than one hundred twenty days after July 26, 2001. 2724

(B) The members appointed by the president of the senate and 2725
speaker of the house of representatives shall serve at the 2726
pleasure of their appointing authorities. Of the initial members 2727
appointed by the governor to the clean Ohio council, four shall be 2728
appointed for two years and three shall be appointed for one year. 2729
Thereafter, terms of office for members appointed by the governor 2730
shall be for two years, with each term ending on the same day of 2731
the same month as did the term that it succeeds. Each of those 2732
members shall hold office from the date of appointment until the 2733
end of the term for which the member is appointed. 2734

Members may be reappointed. Vacancies shall be filled in the 2735
same manner as provided for original appointments. Any member 2736
appointed to fill a vacancy occurring prior to the expiration date 2737
of the term for which the member was appointed shall hold office 2738
for the remainder of that term. A member shall continue in office 2739
after the expiration date of the member's term until the member's 2740
successor takes office or until a period of sixty days has 2741
elapsed, whichever occurs first. The governor may remove a member 2742
appointed by the governor for misfeasance, nonfeasance, or 2743
malfeasance in office. 2744

(C) The ~~director of development~~ governor shall appoint a 2745
member of the clean Ohio council to serve as the chairperson of 2746
the ~~clean Ohio~~ council. The director of development shall serve as 2747
the vice-chairperson of the council unless appointed chairperson. 2748
If the director is appointed chairperson, the council annually 2749
shall select from among its members a vice-chairperson to serve 2750
while the director is chairperson. The council annually shall 2751
select from among its members ~~a vice-chairperson and~~ a secretary 2752
to keep a record of its proceedings. A majority vote of a quorum 2753
of the members of the council is necessary to take action on any 2754
matter. The council may adopt bylaws governing its operation, 2755

including bylaws that establish the frequency of meetings, 2756
procedures for reviewing eligible projects under sections 122.65 2757
to 122.658 of the Revised Code and policies and requirements 2758
established under section 122.657 of the Revised Code, and other 2759
necessary procedures. 2760

(D) Members of the clean Ohio council shall be deemed to be 2761
public officials or officers only for the purposes of section 9.86 2762
and Chapters 102. and 2921. of the Revised Code. Serving as a 2763
member of the clean Ohio council does not constitute holding a 2764
public office or position of employment so as to constitute 2765
grounds for removal of public officers or employees serving as 2766
members of the council from their offices or positions of 2767
employment. Members of the council shall file with the Ohio ethics 2768
commission the disclosure statement described in division (A) of 2769
section 102.02 of the Revised Code on the form prescribed by the 2770
commission and be subject to divisions (C) and (D) of that 2771
section. Members of the council shall serve without compensation 2772
for attending council meetings, but shall receive their actual and 2773
necessary traveling and other expenses incurred in the performance 2774
of their official duties in accordance with the rules of the 2775
office of budget and management. 2776

(E) Members appointed by the governor to represent the 2777
interests of counties, townships, and municipal corporations do 2778
not have a conflict of interest by virtue of their service in the 2779
position. For the purposes of this division, "conflict of 2780
interest" means the taking of any action as a member of the 2781
council that affects a public agency the person serves as an 2782
officer or employee. 2783

(F) The department of development shall provide office space 2784
for the council. The council shall be assisted in its duties by 2785
the staff of the department of development and the environmental 2786
protection agency. 2787

(G) Sections 101.82 to 101.87 of the Revised Code do not 2788
apply to the clean Ohio council. 2789

Sec. 122.658. (A) The clean Ohio revitalization fund is 2790
hereby created in the state treasury. The fund shall consist of 2791
moneys credited to it pursuant to section 151.40 of the Revised 2792
Code. Moneys in the fund shall be used to make grants or loans for 2793
projects that have been approved by the clean Ohio council in 2794
accordance with section 122.653 of the Revised Code, except that 2795
the council annually shall devote twenty per cent of the net 2796
proceeds of obligations deposited in the clean Ohio revitalization 2797
fund for the purposes of section 122.656 of the Revised Code. 2798

Moneys in the clean Ohio revitalization fund may be used to 2799
pay reasonable costs incurred by the department of development and 2800
the environmental protection agency in administering sections 2801
122.65 to 122.658 of the Revised Code. All investment earnings of 2802
the fund shall be credited to the fund. ~~For two years after July~~ 2803
~~26, 2001, investment~~ Investment earnings credited to the clean 2804
Ohio revitalization fund may be used to pay costs incurred by the 2805
department of development and the environmental protection agency 2806
pursuant to sections 122.65 to 122.658 of the Revised Code. 2807

The department of development shall administer the clean Ohio 2808
revitalization fund in accordance with this section, policies and 2809
requirements established under section 122.657 of the Revised 2810
Code, and the terms of agreements entered into by the council 2811
under section 122.653 of the Revised Code. 2812

(B) Grants awarded and loans made under section 122.653 of 2813
the Revised Code shall provide not more than seventy-five per cent 2814
of the estimated total cost of a project. A grant or loan to any 2815
one project shall not exceed three million dollars. An applicant 2816
shall provide at least twenty-five per cent of the estimated total 2817
cost of a project. The applicant's share may consist of one or a 2818

combination of any of the following:	2819
(1) Payment of the cost of acquiring the property for the purposes of sections 122.65 to 122.658 of the Revised Code;	2820 2821
(2) Payment of the reasonable cost of an assessment at the property;	2822 2823
(3) The reasonable value, as determined by the council, of labor and materials that will be contributed by the applicant in performing the cleanup or remediation;	2824 2825 2826
(4) Moneys received by the applicant in any form for use in performing the cleanup or remediation;	2827 2828
(5) Loans secured by the applicant for the purpose of the cleanup or remediation of the brownfield.	2829 2830
Costs that were incurred more than two years prior to the submission of an application to the clean Ohio council for the acquisition of property, assessments, and labor and materials shall not be used as part of the applicant's matching share.	2831 2832 2833 2834
(C) The department of development shall not make any payment to an applicant from the clean Ohio revitalization fund to pay costs of the applicant that were not included in an application for a grant or loan under section 122.653 of the Revised Code or that exceed the amount of the estimated total cost of the project included in the application. If, upon completion of a project, the costs of the project are less than the amounts included in the application, the amounts included in the application less the amounts of the actual costs of the project shall be credited to the clean Ohio revitalization fund. However, the amounts credited shall be equivalent in percentage to the percentage of the costs of the project that were to be funded by the grant or loan from the fund.	2835 2836 2837 2838 2839 2840 2841 2842 2843 2844 2845 2846 2847
(D) Grants awarded or loans made under section 122.653 of the	2848

Revised Code from the clean Ohio revitalization fund shall be used 2849
by an applicant only to pay the costs of the actual cleanup or 2850
remediation of a brownfield and shall not be used by an applicant 2851
to pay any administrative costs incurred by the applicant. Costs 2852
related to the use of a certified professional for purposes of 2853
section 122.654 of the Revised Code are not administrative costs 2854
and may be paid with moneys from grants awarded or loans made 2855
under section 122.653 of the Revised Code. 2856

(E) The portion of net proceeds of obligations devoted under 2857
division (A) of this section for the purposes of section 122.656 2858
of the Revised Code shall be used to make grants for assessments, 2859
cleanup or remediation of brownfields, and public health projects 2860
that have been approved by the director of development under that 2861
section. The department of development shall administer section 2862
122.656 of the Revised Code in accordance with this section, 2863
policies and requirements established under section 122.657 of the 2864
Revised Code, and the terms of agreements entered into by the 2865
director under section 122.656 of the Revised Code. The director 2866
shall not grant more than twenty-five million dollars for public 2867
health projects under section 122.656 of the Revised Code. 2868

(F) Grants awarded under section 122.656 of the Revised Code 2869
shall be used by an applicant only to pay the costs of actually 2870
conducting an assessment, a cleanup or remediation of a 2871
brownfield, or a public health project and shall not be used by an 2872
applicant to pay any administrative costs incurred by the 2873
applicant. Costs related to the use of a certified professional 2874
for purposes of section 122.654 of the Revised Code are not 2875
administrative costs and may be paid with moneys from grants 2876
awarded under section 122.656 of the Revised Code. 2877

(G)(1) The clean Ohio revitalization revolving loan fund is 2878
hereby created in the state treasury. Payments of principal and 2879
interest on loans made from the clean Ohio revitalization fund 2880

shall be credited to this revolving loan fund, as shall payments 2881
of principal and interest on loans made from the revolving loan 2882
fund itself. The revolving loan fund's investment earnings shall 2883
be credited to it. 2884

(2) The clean Ohio revitalization revolving loan fund shall 2885
be used to make loans for the same purposes and subject to the 2886
same policies, requirements, criteria, and application procedures 2887
as loans made from the clean Ohio revitalization fund. 2888

Sec. 122.87. As used in sections 122.87 to ~~122.89~~ 122.90 of 2889
the Revised Code: 2890

(A) "Surety company" means a company that is authorized by 2891
the department of insurance to issue bonds as surety. 2892

(B) "Minority business" means any of the following 2893
occupations: 2894

(1) Minority construction contractor; 2895

(2) Minority seller; 2896

(3) Minority service vendor. 2897

(C) "Minority construction contractor" means a person who is 2898
both a construction contractor and an owner of a minority business 2899
enterprise certified under division (B) of section 123.151 of the 2900
Revised Code. 2901

(D) "Minority seller" means a person who is both a seller of 2902
goods and an owner of a minority business enterprise listed on the 2903
special minority business enterprise bid notification list under 2904
division (B) of section 125.08 of the Revised Code. 2905

(E) "Minority service vendor" means a person who is both a 2906
vendor of services and an owner of a minority business enterprise 2907
listed on the special minority business enterprise bid 2908
notification list under division (B) of section 125.08 of the 2909

Revised Code.	2910
(F) "Minority business enterprise" has the meaning given in section 122.71 of the Revised Code.	2911 2912
<u>(G) "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the director of administrative services under section 123.152 of the Revised Code.</u>	2913 2914 2915 2916 2917 2918
Sec. 122.88. (A) There is hereby created in the state treasury the minority business bonding fund, consisting of moneys deposited or credited to it pursuant to section 169.05 of the Revised Code; all grants, gifts, and contributions received pursuant to division (B)(9) of section 122.74 of the Revised Code; all moneys recovered following defaults; and any other moneys obtained by the director of development for the purposes of sections 122.87 to 122.89 <u>122.90</u> of the Revised Code. The fund shall be administered by the director. Moneys in the fund shall be held in trust for the purposes of sections 122.87 to 122.89 <u>122.90</u> of the Revised Code.	2919 2920 2921 2922 2923 2924 2925 2926 2927 2928 2929
(B) Any claims against the state arising from defaults shall be payable from the minority business bonding program administrative and loss reserve fund as provided in division (C) of this section or from the minority business bonding fund. Nothing in sections 122.87 to 122.89 <u>122.90</u> of the Revised Code grants or pledges to any obligee or other person any state moneys other than the moneys in the minority business bonding program administrative and loss reserve fund or the minority business bonding fund, or moneys available to the minority business bonding fund upon request of the director in accordance with division (B) of section 169.05 of the Revised Code.	2930 2931 2932 2933 2934 2935 2936 2937 2938 2939 2940

(C) There is hereby created in the state treasury the 2941
minority business bonding program administrative and loss reserve 2942
fund, consisting of all premiums charged and collected in 2943
accordance with section 122.89 of the Revised Code and any 2944
interest income earned from the moneys in the minority business 2945
bonding fund. All expenses of the director and the minority 2946
development financing advisory board in carrying out the purposes 2947
of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code shall be 2948
paid from the minority business bonding program administrative and 2949
loss reserve fund. 2950

Any moneys to the credit of the minority business bonding 2951
program administrative and loss reserve fund in excess of the 2952
amount necessary to fund the appropriation authority for the 2953
minority business bonding program administrative and loss reserve 2954
fund shall be held as a loss reserve to pay claims arising from 2955
defaults on surety bonds underwritten in accordance with section 2956
122.89 of the Revised Code or guaranteed in accordance with 2957
section 122.90 of the Revised Code. If the balance of funds in the 2958
minority business bonding program administrative and loss reserve 2959
fund is insufficient to pay a claim against the state arising from 2960
default, then such claim shall be payable from the minority 2961
business bonding fund. 2962

Sec. 122.90. (A) The director of development may guarantee 2963
bonds executed by sureties for minority businesses and EDGE 2964
business enterprises certified under section 123.152 of the 2965
Revised Code as principals on contracts with the state, any 2966
political subdivision or instrumentality, or any person as the 2967
obligee. The director, as guarantor, may exercise all the rights 2968
and powers of a company authorized by the department of insurance 2969
to guarantee bonds under Chapter 3929. of the Revised Code but 2970
otherwise is not subject to any laws related to a guaranty company 2971

under Title XXXIX of the Revised Code nor to any rules of the 2972
department of insurance. 2973

(B) The director shall adopt rules under Chapter 119. of the 2974
Revised Code to establish procedures for the application for bond 2975
guarantees and the review and approval of applications for bond 2976
guarantees submitted by sureties that execute bonds eligible for 2977
guarantees under division (A) of this section. 2978

(C) In accordance with rules adopted pursuant to this 2979
section, the director may guarantee up to ninety per cent of the 2980
loss incurred and paid by sureties on bonds guaranteed under 2981
division (A) of this section. 2982

(D) The penal sum amounts of all outstanding guarantees made 2983
by the director under this section shall not exceed three times 2984
the difference between the amount of moneys in the minority 2985
business bonding fund and available to the fund under division (B) 2986
of section 169.05 of the Revised Code and the amount of all 2987
outstanding bonds issued by the director in accordance with 2988
division (A) of section 122.89 of the Revised Code. 2989

Sec. 123.01. (A) The department of administrative services, 2990
in addition to those powers enumerated in Chapters 124. and 125. 2991
of the Revised Code, and as provided elsewhere by law, shall 2992
exercise the following powers: 2993

(1) To prepare, or contract to be prepared, by licensed 2994
engineers or architects, surveys, general and detailed plans, 2995
specifications, bills of materials, and estimates of cost for any 2996
projects, improvements, or public buildings to be constructed by 2997
state agencies that may be authorized by legislative 2998
appropriations or any other funds made available therefor, 2999
provided that the construction of the projects, improvements, or 3000
public buildings is a statutory duty of the department. This 3001
section does not require the independent employment of an 3002

architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, and the boards of trustees of such institutions, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

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

(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent

domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code; 3035
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(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency; 3037
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(7) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law; 3041
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(8) To procure, by lease, storage accommodations for a state agency; 3044
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(9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant 3046
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to section 123.77 of the Revised Code.	3067
(10) To lease office space in buildings for the use of a state agency;	3068 3069
(11) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;	3070 3071
(12) To exercise general custodial care of all real property of the state;	3072 3073
(13) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;	3074 3075 3076 3077
(14) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.	3078 3079 3080 3081 3082 3083 3084 3085 3086 3087
(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:	3088 3089 3090 3091 3092 3093
(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;	3094 3095
(ii) Details to scale and full sized, so drawn and	3096

represented as to be easily understood; 3097

(iii) Accurate bills showing the exact quantity of different 3098
kinds of material necessary to the construction; 3099

(iv) Definite and complete specifications of the work to be 3100
performed, together with such directions as will enable a 3101
competent mechanic or other builder to carry them out and afford 3102
bidders all needed information; 3103

(v) A full and accurate estimate of each item of expense and 3104
of the aggregate cost thereof. 3105

(b) The department shall give public notice, in such 3106
newspaper, in such form, and with such phraseology as the director 3107
of administrative services prescribes, published once each week 3108
for four consecutive weeks, of the time when and place where bids 3109
will be received for entering into an agreement to lease to a 3110
state agency a building, structure, or other improvement. The last 3111
publication shall be at least eight days preceding the day for 3112
opening the bids. The bids shall contain the terms upon which the 3113
builder would propose to lease the building, structure, or other 3114
improvement to the state agency. The form of the bid approved by 3115
the department shall be used, and a bid is invalid and shall not 3116
be considered unless that form is used without change, alteration, 3117
or addition. Before submitting bids pursuant to this section, any 3118
builder shall comply with Chapter 153. of the Revised Code. 3119

(c) On the day and at the place named for receiving bids for 3120
entering into lease agreements with a state agency, the director 3121
of administrative services shall open the bids and shall publicly 3122
proceed immediately to tabulate the bids upon duplicate sheets. No 3123
lease agreement shall be entered into until the bureau of workers' 3124
compensation has certified that the person to be awarded the lease 3125
agreement has complied with Chapter 4123. of the Revised Code, 3126
until, if the builder submitting the lowest and best bid is a 3127

foreign corporation, the secretary of state has certified that the 3128
corporation is authorized to do business in this state, until, if 3129
the builder submitting the lowest and best bid is a person 3130
nonresident of this state, the person has filed with the secretary 3131
of state a power of attorney designating the secretary of state as 3132
its agent for the purpose of accepting service of summons in any 3133
action brought under Chapter 4123. of the Revised Code, and until 3134
the agreement is submitted to the attorney general and the 3135
attorney general's approval is certified thereon. Within thirty 3136
days after the day on which the bids are received, the department 3137
shall investigate the bids received and shall determine that the 3138
bureau and the secretary of state have made the certifications 3139
required by this section of the builder who has submitted the 3140
lowest and best bid. Within ten days of the completion of the 3141
investigation of the bids, the department shall award the lease 3142
agreement to the builder who has submitted the lowest and best bid 3143
and who has been certified by the bureau and secretary of state as 3144
required by this section. If bidding for the lease agreement has 3145
been conducted upon the basis of basic plans, specifications, 3146
bills of materials, and estimates of costs, upon the award to the 3147
builder the department, or the builder with the approval of the 3148
department, shall appoint an architect or engineer licensed in 3149
this state to prepare such further detailed plans, specifications, 3150
and bills of materials as are required to construct the building, 3151
structure, or improvement. The department shall adopt such rules 3152
as are necessary to give effect to this section. The department 3153
may reject any bid. Where there is reason to believe there is 3154
collusion or combination among bidders, the bids of those 3155
concerned therein shall be rejected. 3156

(15) To acquire by purchase, gift, devise, or grant and to 3157
transfer, lease, or otherwise dispose of all real property 3158
required to assist in the development of a conversion facility as 3159
defined in section 5709.30 of the Revised Code; 3160

(16) To lease for a period not to exceed forty years, 3161
notwithstanding any other division of this section, the 3162
state-owned property located at 408-450 East Town Street, 3163
Columbus, Ohio, formerly the state school for the deaf, to a 3164
developer in accordance with this section. "Developer," as used in 3165
this section, has the same meaning as in section 123.77 of the 3166
Revised Code. 3167

Such a lease shall be for the purpose of development of the 3168
land for use by senior citizens by constructing, altering, 3169
renovating, repairing, expanding, and improving the site as it 3170
existed on June 25, 1982. A developer desiring to lease the land 3171
shall prepare for submission to the department a plan for 3172
development. Plans shall include provisions for roads, sewers, 3173
water lines, waste disposal, water supply, and similar matters to 3174
meet the requirements of state and local laws. The plans shall 3175
also include provision for protection of the property by insurance 3176
or otherwise, and plans for financing the development, and shall 3177
set forth details of the developer's financial responsibility. 3178

The department may employ, as employees or consultants, 3179
persons needed to assist in reviewing the development plans. Those 3180
persons may include attorneys, financial experts, engineers, and 3181
other necessary experts. The department shall review the 3182
development plans and may enter into a lease if it finds all of 3183
the following: 3184

(a) The best interests of the state will be promoted by 3185
entering into a lease with the developer; 3186

(b) The development plans are satisfactory; 3187

(c) The developer has established the developer's financial 3188
responsibility and satisfactory plans for financing the 3189
development. 3190

The lease shall contain a provision that construction or 3191

renovation of the buildings, roads, structures, and other 3192
necessary facilities shall begin within one year after the date of 3193
the lease and shall proceed according to a schedule agreed to 3194
between the department and the developer or the lease will be 3195
terminated. The lease shall contain such conditions and 3196
stipulations as the director considers necessary to preserve the 3197
best interest of the state. Moneys received by the state pursuant 3198
to this lease shall be paid into the general revenue fund. The 3199
lease shall provide that at the end of the lease period the 3200
buildings, structures, and related improvements shall become the 3201
property of the state without cost. 3202

(17) To lease to any person any tract of land owned by the 3203
state and under the control of the department, or any part of such 3204
a tract, for the purpose of drilling for or the pooling of oil or 3205
gas. Such a lease shall be granted for a period not exceeding 3206
forty years, with the full power to contract for, determine the 3207
conditions governing, and specify the amount the state shall 3208
receive for the purposes specified in the lease, and shall be 3209
prepared as in other cases. 3210

(18) Biennially implement, by state agency location, a census 3211
of agency employees assigned space; 3212

(19) Require each state agency to categorize periodically the 3213
use of space allotted to the agency between office space, common 3214
areas, storage space, and other uses and report its findings to 3215
the department; 3216

(20) Create and update periodically a master space 3217
utilization plan for all space allotted to state agencies. The 3218
plan shall incorporate space utilization metrics. 3219

(21) Conduct periodically a cost-benefit analysis to 3220
determine the effectiveness of state-owned buildings; 3221

(22) Assess periodically the alternatives associated with 3222

<u>consolidating the commercial leases for buildings located in</u>	3223
<u>Columbus;</u>	3224
<u>(23) Commission a comprehensive space utilization and</u>	3225
<u>capacity study in order to determine the feasibility of</u>	3226
<u>consolidating existing commercially leased space used by state</u>	3227
<u>agencies into a new state-owned facility.</u>	3228
(B) This section and section 125.02 of the Revised Code shall	3229
not interfere with any of the following:	3230
(1) The power of the adjutant general to purchase military	3231
supplies, or with the custody of the adjutant general of property	3232
leased, purchased, or constructed by the state and used for	3233
military purposes, or with the functions of the adjutant general	3234
as director of state armories;	3235
(2) The power of the director of transportation in acquiring	3236
rights-of-way for the state highway system, or the leasing of	3237
lands for division or resident district offices, or the leasing of	3238
lands or buildings required in the maintenance operations of the	3239
department of transportation, or the purchase of real property for	3240
garage sites or division or resident district offices, or in	3241
preparing plans and specifications for and constructing such	3242
buildings as the director may require in the administration of the	3243
department;	3244
(3) The power of the director of public safety and the	3245
registrar of motor vehicles to purchase or lease real property and	3246
buildings to be used solely as locations to which a deputy	3247
registrar is assigned pursuant to division (B) of section 4507.011	3248
of the Revised Code and from which the deputy registrar is to	3249
conduct the deputy registrar's business, the power of the director	3250
of public safety to purchase or lease real property and buildings	3251
to be used as locations for division or district offices as	3252
required in the maintenance of operations of the department of	3253

public safety, and the power of the superintendent of the state 3254
highway patrol in the purchase or leasing of real property and 3255
buildings needed by the patrol, to negotiate the sale of real 3256
property owned by the patrol, to rent or lease real property owned 3257
or leased by the patrol, and to make or cause to be made repairs 3258
to all property owned or under the control of the patrol; 3259

(4) The power of the division of liquor control in the 3260
leasing or purchasing of retail outlets and warehouse facilities 3261
for the use of the division; 3262

(5) The power of the director of development to enter into 3263
leases of real property, buildings, and office space to be used 3264
solely as locations for the state's foreign offices to carry out 3265
the purposes of section 122.05 of the Revised Code. 3266

(C) Purchases for, and the custody and repair of, buildings 3267
under the management and control of the capitol square review and 3268
advisory board, the rehabilitation services commission, the bureau 3269
of workers' compensation, or the departments of public safety, job 3270
and family services, mental health, mental retardation and 3271
developmental disabilities, and rehabilitation and correction, and 3272
buildings of educational and benevolent institutions under the 3273
management and control of boards of trustees, are not subject to 3274
the control and jurisdiction of the department of administrative 3275
services. 3276

(D) Any instrument by which real property is acquired 3277
pursuant to this section shall identify the agency of the state 3278
that has the use and benefit of the real property as specified in 3279
section 5301.012 of the Revised Code. 3280

Sec. 123.152. (A) As used in this section, "EDGE business 3281
enterprise" means a sole proprietorship, association, partnership, 3282
corporation, limited liability corporation, or joint venture 3283
certified as a participant in the encouraging diversity, growth, 3284

and equity program by the director of administrative services 3285
under this section of the Revised Code. 3286

(B) The director of administrative services shall establish a 3287
business assistance program known as the encouraging diversity, 3288
growth, and equity program and shall adopt rules in accordance 3289
with Chapter 119. of the Revised Code to administer the program 3290
and that do all of the following: 3291

(1) Establish procedures by which a sole proprietorship, 3292
association, partnership, corporation, limited liability 3293
corporation, or joint venture may apply for certification as an 3294
EDGE business enterprise; 3295

(2) Establish agency procurement goals for contracting with 3296
EDGE business enterprises in the award of contracts under Chapters 3297
123., 125., and 153. of the Revised Code based on the availability 3298
of eligible program participants by region or geographic area, as 3299
determined by the director, and by standard industrial code. 3300

(a) Goals established under division (B)(2) of this section 3301
shall be based on a percentage level of participation and a 3302
percentage of contractor availability. 3303

(b) Goals established under division (B)(2) of this section 3304
shall be applied at the contract level, relative to an overall 3305
dollar goal for each state agency, in accordance with the 3306
following certification categories: construction, architecture, 3307
and engineering; professional services; goods and services; and 3308
information technology services. 3309

(3) Establish a system of certifying EDGE business 3310
enterprises based on a requirement that the business owner or 3311
owners show both social and economic disadvantage based on the 3312
following, as determined to be sufficient by the director: 3313

(a) Relative wealth of the business seeking certification as 3314
well as the personal wealth of the owner or owners of the 3315

<u>business;</u>	3316
<u>(b) Social disadvantage based on any of the following:</u>	3317
<u>(i) A rebuttable presumption when the business owner or</u>	3318
<u>owners demonstrate membership in a racial minority group or show</u>	3319
<u>personal disadvantage due to color, ethnic origin, gender,</u>	3320
<u>physical disability, long-term residence in an environment</u>	3321
<u>isolated from the mainstream of American society, location in an</u>	3322
<u>area of high unemployment;</u>	3323
<u>(ii) Some other demonstration of personal disadvantage not</u>	3324
<u>common to other small businesses;</u>	3325
<u>(iii) By business location in a qualified census tract.</u>	3326
<u>(c) Economic disadvantage based on economic and business size</u>	3327
<u>thresholds and eligibility criteria designed to stimulate economic</u>	3328
<u>development through contract awards to businesses located in</u>	3329
<u>qualified census tracts.</u>	3330
<u>(4) Establish standards to determine when an EDGE business</u>	3331
<u>enterprise no longer qualifies for EDGE business enterprise</u>	3332
<u>certification;</u>	3333
<u>(5) Develop a process for evaluating and adjusting goals</u>	3334
<u>established by this section to determine what adjustments are</u>	3335
<u>necessary to achieve participation goals established by the</u>	3336
<u>director;</u>	3337
<u>(6) Establish a point system to evaluate bid proposals to</u>	3338
<u>encourage EDGE business enterprises to participate in the</u>	3339
<u>procurement of professional design and information technology</u>	3340
<u>services;</u>	3341
<u>(7) Establish a system to track data and analyze each</u>	3342
<u>certification category established under division (B)(2)(b) of</u>	3343
<u>this section;</u>	3344
<u>(8) Establish a process to mediate complaints and to review</u>	3345

<u>EDGE business enterprise certification appeals;</u>	3346
<u>(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;</u>	3347 3348 3349
<u>(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;</u>	3350 3351 3352
<u>(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;</u>	3353 3354 3355
<u>(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;</u>	3356 3357 3358 3359
<u>(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies.</u>	3360 3361 3362 3363
<u>(C) Not later than December 31, 2003, the director of administrative services shall prepare a detailed report to the governor outlining and evaluating the progress made in implementing the encouraging diversity, growth, and equity program.</u>	3364 3365 3366 3367 3368
<u>Sec. 123.153.</u> <u>The director of development shall do all of the following with regard to the encouraging diversity, growth, and equity program created under section 123.152 of the Revised Code:</u>	3369 3370 3371 3372
<u>(A) Conduct outreach, marketing, and recruitment of EDGE business enterprises;</u>	3373 3374
<u>(B) Provide assistance to the department of administrative</u>	3375

services, as needed, to certify new EDGE business enterprises and 3376
to train appropriate state agency staff; 3377

(C) Provide business development services to EDGE business 3378
enterprises in the developmental and transitional stages of the 3379
program, including financial and bonding and management and 3380
technical assistance; 3381

(D) Develop a mentor program to bring businesses into a 3382
working relationship with EDGE business enterprises in a way that 3383
commercially benefits both entities and serves the purpose of the 3384
EDGE program; 3385

(E) Not later than December 31, 2003, prepare a detailed 3386
report to the governor outlining and evaluating the progress made 3387
in implementing the encouraging diversity, growth, and equity 3388
program; 3389

(F) Establish processes by which an EDGE business enterprise 3390
may apply for contract assistance, financial and bonding 3391
assistance, management and technical assistance, and mentoring 3392
opportunities. 3393

Sec. 124.03. The state personnel board of review shall 3394
exercise the following powers and perform the following duties: 3395

(A) Hear appeals, as provided by law, of employees in the 3396
classified state service from final decisions of appointing 3397
authorities or the director of administrative services relative to 3398
reduction in pay or position, job abolishments, layoff, 3399
suspension, discharge, assignment or reassignment to a new or 3400
different position classification, or refusal of the director, or 3401
anybody authorized to perform the director's functions, to 3402
reassign an employee to another classification or to reclassify 3403
the employee's position with or without a job audit under division 3404
(D) of section 124.14 of the Revised Code. As used in this 3405

division, "discharge" includes disability separations. ~~The~~ 3406

The board may affirm, disaffirm, or modify the decisions of 3407
the appointing authorities or the director, as the case may be, 3408
and its decision is final. The board's decisions shall be 3409
consistent with the applicable classification specifications. ~~The~~ 3410

The board shall not be deprived of jurisdiction to hear any 3411
appeal due to the failure of an appointing authority to file its 3412
decision with the board. Any final decision of an appointing 3413
authority or of the director not filed in the manner provided in 3414
this chapter shall be disaffirmed. ~~The~~ 3415

The board may place an exempt employee, as defined in section 3416
124.152 of the Revised Code, into a bargaining unit 3417
classification, if the board determines that the bargaining unit 3418
classification is the proper classification for that employee. 3419
Notwithstanding Chapter 4117. of the Revised Code or instruments 3420
and contracts negotiated under it, such placements are at the 3421
board's discretion. 3422

In any hearing before the board, including any hearing at 3423
which a record is taken that may be the basis of an appeal to a 3424
court, an employee may be represented by a person permitted to 3425
practice before the board who is not an attorney at law ~~so~~ as long 3426
as the person does not receive any compensation from the employee 3427
for ~~such~~ the representation. 3428

(B) Hear appeals, as provided by law, of appointing 3429
authorities from final decisions of the director relative to the 3430
classification or reclassification of any position in the 3431
classified state service under the jurisdiction of ~~such~~ that 3432
appointing authority. The board may affirm, disaffirm, or modify 3433
the decisions of the director, and its decision is final. The 3434
board's decisions shall be consistent with the applicable 3435
classification specifications. 3436

(C) Exercise the authority provided by section 124.40 of the Revised Code, for appointment, removal, and supervision of municipal and civil service township civil service commissions;

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

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

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

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

(H) The board shall be funded by general revenue fund appropriations. All moneys received by the board for copies of documents, rule books, and transcriptions shall be paid into the state treasury to the credit of the transcript and other documents

fund, which is hereby created to defray the cost of ~~furnishing or~~ 3468
~~making available such copies, rule books, and transcriptions~~ 3469
producing an administrative record. 3470

Sec. 125.05. Except as provided in division (E) of this 3471
section, no state agency shall purchase any supplies or services 3472
except as provided in divisions (A) to (C) of this section. 3473

(A) Subject to division (D) of this section, a state agency 3474
may, without competitive selection, make any purchase of services 3475
that cost fifty thousand dollars or less or any purchase of 3476
supplies that cost twenty-five thousand dollars or less. The 3477
agency may make the purchase directly or may make the purchase 3478
from or through the department of administrative services, 3479
whichever the agency determines. The department shall establish 3480
written procedures to assist state agencies when they make direct 3481
purchases. If the agency makes the purchase directly, it shall 3482
make the purchase by a term contract whenever possible. 3483

(B) ~~Subject~~ (1) Except as provided in division (B)(2) of this 3484
section and subject to division (D) of this section, a state 3485
agency wanting to purchase services that cost more than fifty 3486
thousand dollars or supplies that cost more than twenty-five 3487
thousand dollars shall, unless otherwise authorized by law, make 3488
the purchase from or through the department. The department shall 3489
make the purchase by competitive selection under section 125.07 of 3490
the Revised Code. If the director of administrative services 3491
determines that it is not possible or not advantageous to the 3492
state for the department to make the purchase, the department 3493
shall grant the agency a release and permit under section 125.06 3494
of the Revised Code to make the purchase. Section 127.16 of the 3495
Revised Code does not apply to purchases the department makes 3496
under this section. 3497

(2) Subject to division (D) of this section, a state agency 3498

desiring to purchase services that cost more than fifty thousand 3499
dollars or supplies that cost more than twenty-five thousand 3500
dollars shall solicit, pursuant to the competitive selection 3501
requirements specified in section 125.07 of the Revised Code, at 3502
least three bids for the services or supplies and make the 3503
purchase directly from the lowest bidder instead of from or 3504
through the department, but only if the state agency determines 3505
that it is possible to purchase the services or supplies directly 3506
from that bidder at a lower price than making the purchase from or 3507
through the department. If the agency makes a purchase pursuant to 3508
division (B)(2) of this section, it shall provide the department 3509
with written notification of the subject and amount of the 3510
purchase. 3511

(C) An agency that has been granted a release and permit to 3512
make a purchase may make the purchase without competitive 3513
selection if after making the purchase the cumulative purchase 3514
threshold as computed under division (F) of section 127.16 of the 3515
Revised Code would: 3516

(1) Be exceeded and the controlling board approves the 3517
purchase; 3518

(2) Not be exceeded and the department of administrative 3519
services approves the purchase. 3520

(D) Not later than January 31, 1997, the amounts specified in 3521
divisions (A) and (B) of this section and, not later than the 3522
thirty-first day of January of each second year thereafter, any 3523
amounts computed by adjustments made under this division, shall be 3524
increased or decreased by the average percentage increase or 3525
decrease in the consumer price index prepared by the United States 3526
bureau of labor statistics (U.S. City Average for Urban Wage 3527
Earners and Clerical Workers: "All Items 1982-1984=100") for the 3528
twenty-four calendar month period prior to the immediately 3529
preceding first day of January over the immediately preceding 3530

twenty-four calendar month period, as reported by the bureau. The 3531
director of administrative services shall make this determination 3532
and adjust the appropriate amounts accordingly. 3533

(E) If the Ohio SchoolNet commission, the department of 3534
education, or the Ohio education computer network determines that 3535
it can purchase software services or supplies for specified school 3536
districts at a price less than the price for which the districts 3537
could purchase the same software services or supplies for 3538
themselves, the office, department, or network shall certify that 3539
fact to the department of administrative services and, acting as 3540
an agent for the specified school districts, shall make that 3541
purchase without following the provisions in divisions (A) to (D) 3542
of this section. 3543

Sec. 125.06. The department of administrative services may, 3544
pursuant to division (B)(1) of section 125.05 of the Revised Code 3545
and subject to such rules as the director of administrative 3546
services may adopt, issue a release and permit to the agency to 3547
secure supplies or services. A release and permit shall specify 3548
the supplies or services to which it applies, the time during 3549
which it is operative, and the reason for its issuance. A release 3550
and permit for computer services shall also specify the type of 3551
services to be rendered, the number and type of machines to be 3552
employed, and may specify the amount of such services to be 3553
performed. One copy of every release and permit shall be filed 3554
with the agency to which it is issued, and one copy shall be 3555
retained by the department. 3556

Sec. 125.07. The department of administrative services, in 3557
making a purchase by competitive selection pursuant to division 3558
(B)(1) of section 125.05 of the Revised Code, or a state agency, 3559
in making a purchase by competitive selection pursuant to division 3560
(B)(2) of section 125.02 of the Revised Code, shall give notice in 3561

the following manner: 3562

(A) The department or state agency shall advertise the 3563
intended purchases by notice that is posted by mail or electronic 3564
means and that is for the benefit of competing persons producing 3565
or dealing in the supplies or services to be purchased, including, 3566
but not limited to, the persons whose names appear on the 3567
appropriate list provided for in section 125.08 of the Revised 3568
Code. The notice may be in the form of the bid or proposal 3569
document or of a listing in a periodic bulletin, or in any other 3570
form the director of administrative services or state agency head 3571
considers appropriate to sufficiently notify qualified competing 3572
persons of the intended purchases. 3573

(B) The notice required under division (A) of this section 3574
shall include the time and place where bids or proposals will be 3575
accepted and opened, or, when bids are made in a reverse auction, 3576
the time when bids will be accepted; the conditions under which 3577
bids or proposals will be received; the terms of the proposed 3578
purchases; and an itemized list of the supplies or services to be 3579
purchased and the estimated quantities or amounts of them. 3580

(C) The posting of the notice required under division (A) of 3581
this section shall be completed by the number of days the director 3582
or state agency head determines preceding the day when the bids or 3583
proposals will be opened or accepted. 3584

(D) The department or state agency also shall maintain, in a 3585
public place in its office, a bulletin board upon which it shall 3586
post and maintain a copy of the notice required under division (A) 3587
of this section for at least the number of days the director or 3588
state agency head determines under division (C) of this section 3589
preceding the day of the opening or acceptance of the bids or 3590
proposals. The failure to so additionally post the notice shall 3591
invalidate all proceedings had and any contract entered into 3592
pursuant to the proceedings. 3593

Sec. 125.073. (A) The department of administrative services shall actively promote and accelerate the use of electronic procurement, including reverse auctions as defined by section 125.072 of the Revised Code, by implementing the relevant recommendations concerning electronic procurement from the "2000 Management Improvement Commission Report to the Governor" when exercising its statutory powers.

(B) Beginning July 1, 2004, the department shall annually on or before the first day of July report to the committees in each house of the general assembly dealing with finance indicating the effectiveness of electronic procurement.

Sec. 125.15. All state agencies required to secure any equipment, materials, supplies, or services, ~~or contracts of insurance~~ from the department of administrative services shall make acquisition in the manner and upon forms prescribed by the director of administrative services and shall reimburse the department for the equipment, materials, supplies, or services, ~~or contracts of insurance,~~ including a reasonable sum to cover the department's administrative costs, whenever reimbursement is required by the department. The money so paid shall be deposited in the state treasury to the credit of the general services fund or the information technology fund, as appropriate. ~~Such~~ Those funds are hereby created.

Sec. 125.831. As used in sections 125.831 to 125.834 of the Revised Code:

(A) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority.

(B) "Motor vehicle" means any automobile, automobile truck, tractor, or self-propelled vehicle not operated or driven on fixed rails or track, but does not include a motor vehicle used by a law enforcement officer or that has a one-ton or higher hauling capacity. 3624
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(C) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, but does not include the general assembly, any legislative agency, the supreme court, other courts of record in the state, or any judicial agency. 3629
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Sec. 125.832. The department of administrative services is hereby granted exclusive authority over the acquisition and management of all motor vehicles used by state agencies. In carrying out this authority, the department shall do all of the following: 3634
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(A) Approve the purchase or lease of each motor vehicle. The department shall decide if a motor vehicle shall be leased or purchased. 3639
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(B) Direct and approve all funds that are expended for the purchase, lease, repair, maintenance, registration, insuring, and all other costs related to the possession and operation of the motor vehicles; 3642
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(C) Adopt rules pursuant to section 111.15 of the Revised Code establishing policies and procedures for the assignment of the motor vehicles to state agencies and to the employees and heads of state agencies. Where applicable, these policies and procedures shall include approval of the location of each state agency's motor vehicle pool. The pool may be at the central office of the state agency or at one or more of the state agency's regional offices. Assignment of motor vehicles to state agencies 3646
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and to the employees and heads of state agencies shall be at the 3654
sole discretion of the department. 3655

(D) Determine how the motor vehicles will be maintained, 3656
insured, operated, financed, and licensed; 3657

(E) Negotiate with vendors to create fuel plans for the 3658
provision of fuel for the motor vehicles; 3659

(F)(1) Pursuant to the formula in division (F)(2) of this 3660
section, annually establish the minimum number of business miles 3661
per year an employee or the head of a state agency must drive in 3662
order to qualify for approval by the department to receive a 3663
personal motor vehicle for business use. The department shall not 3664
establish a minimum number that is less than fourteen thousand 3665
miles. The minimum number shall not include business miles 3666
traveled to and from the employee's home and work. 3667

(2) The department shall establish the minimum number of 3668
business miles per year under division (F)(1) of this section at 3669
an amount that results when the annual motor vehicle cost is 3670
divided by the amount that is the reimbursement rate per mile 3671
minus the amount that is the sum of the fuel cost, the operating 3672
cost, and the insurance cost. 3673

As used in division (F)(2) of this section: 3674

(a) "Annual motor vehicle cost" means the price of an average 3675
motor vehicle divided by the number of years an average motor 3676
vehicle is used. 3677

(b) "Fuel cost" means the average price per gallon of motor 3678
fuel divided by the miles per gallon fuel efficiency of an average 3679
motor vehicle. 3680

(c) "Insurance cost" means the cost of insuring an average 3681
motor vehicle per year divided by the number of miles an average 3682
motor vehicle is driven per year. 3683

(d) "Operating cost" means the maintenance cost of an average motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted pursuant to division (B) of section 126.31 of the Revised Code.

(G) By December 31, 2003, adopt rules under section 111.15 of the Revised Code establishing policies and procedures governing the receipt by an employee or the head of a state agency of any additional salary, stipend, reimbursement, or any other form of compensation from the state agency for the employee's or head's use, ownership, lease, or operation of a motor vehicle.

(H) Implement the recommendations from the 2002 report entitled "Administrative Analysis of the Ohio Fleet Management Program" related to the authority granted to the department by this section.

Sec. 125.833. (A) There is hereby established within the department of administrative services the vehicle management commission.

(B) The commission shall consist of the director of administrative services and six other members consisting of two members of the house of representatives appointed by the speaker of the house of representatives, two members of the senate appointed by the president of the senate, and two persons with experience in the vehicle leasing, purchasing, and maintenance industry in the state who are selected by the other five members of the commission. Initial appointments of legislative members to

the committee shall be made by September 1, 2003, and in the 3714
manner prescribed in this section. Thereafter, appointments to the 3715
committee shall be made within fifteen days after the commencement 3716
of the first regular session of the general assembly and in the 3717
manner prescribed in this section. The terms of legislative 3718
members shall be for the duration of the session of the general 3719
assembly in which they are appointed. Legislative members of the 3720
committee shall continue to serve on the committee until the 3721
appointments are made in the following session of the general 3722
assembly, unless they cease to be members of the general assembly. 3723
A vacancy on the committee shall be filled for the unexpired term 3724
in the same manner as the original appointment. 3725

(C) The commission shall periodically review the 3726
implementation of this section by the department of administrative 3727
services and may recommend to the department and the general 3728
assembly modifications to the department's procedures and 3729
functions and other statutory changes. 3730

Sec. 125.834. (A) Motor vehicles shall be made available to 3731
state agencies and the employees and heads of state agencies only 3732
in the following ways: 3733

(1) Through provision by the department on an intermittent or 3734
temporary basis under section 125.83 of the Revised Code; 3735

(2) Through a motor vehicle pool at the central office of the 3736
state agency or at one or more of the state agency's regional 3737
offices, as the department determines under division (C) of 3738
section 125.832 of the Revised Code; 3739

(3) Through the provision of a personal motor vehicle at the 3740
request of a state agency to an employee or the head of the state 3741
agency who drives the minimum number of business miles per year 3742
that the department determines under division (F)(1) of section 3743
125.832 of the Revised Code and who receives approval for the 3744

motor vehicle from the department. If that individual drives less 3745
than the minimum number of miles per year or is otherwise not 3746
granted approval by the department for a personal motor vehicle, 3747
the individual must use an agency pool motor vehicle or the 3748
individual's own motor vehicle. If an individual uses the 3749
individual's own motor vehicle, the individual shall be reimbursed 3750
at the same mileage rate allowed for the reimbursement of travel 3751
expenses as provided by rule of the director of budget and 3752
management adopted pursuant to division (B) of section 126.31 of 3753
the Revised Code. If a state agency requests and receives approval 3754
for a personal motor vehicle for an individual and the individual 3755
drives the motor vehicle less than the minimum number of business 3756
miles per year, the state agency shall return that motor vehicle 3757
to the department for reassignment pursuant to this section. The 3758
state agency shall reimburse the department for all administrative 3759
costs incurred in the return and reassignment of the motor 3760
vehicle. 3761

(B) No employee or head of a state agency shall receive any 3762
additional salary, stipend, reimbursement, or any other form of 3763
compensation from the state agency with which the employee or head 3764
serves for the employee's or head's use, ownership, lease, or 3765
operation of a motor vehicle unless it is in accordance with rules 3766
adopted by the department under division (G) of section 125.832 of 3767
the Revised Code. 3768

(C) Each state agency shall reimburse the department for all 3769
costs incurred in the assignment of motor vehicles to the state 3770
agency. 3771

(D) Employees of the department shall be the only state 3772
employees responsible for the purchase, lease, repair, 3773
maintenance, registration, and insuring, and all other 3774
responsibilities related to the possession and operation of motor 3775
vehicles used by state agencies. 3776

(E) Except in the case of an emergency, all fuel for state vehicles must be purchased pursuant to fuel plans that the department negotiates under division (E) of section 125.832 of the Revised Code. In the case of an emergency, a state agency or its employee or head may purchase fuel other than pursuant to such a fuel plan and be reimbursed for expenses incurred upon the approval of the department.

Sec. 125.22. (A) The department of administrative services shall establish the central service agency to perform routine support for the following boards and commissions:

- (1) State board of examiners of architects;
- (2) Barber board;
- (3) State chiropractic board;
- (4) State board of cosmetology;
- (5) Accountancy board;
- (6) State dental board;
- (7) State vision board ~~of optometry~~;
- (8) Ohio occupational therapy, physical therapy, and athletic trainers board;
- (9) State board of registration for professional engineers and surveyors;
- (10) State board of sanitarian registration;
- (11) Board of embalmers and funeral directors;
- (12) State board of psychology;
- (13) ~~Ohio optical dispensers board~~;
- ~~(14)~~ Board of speech pathology and audiology;
- ~~(15)~~(14) Counselor, social worker, and marriage and family

therapist board;	3804
(16) (15) State veterinary medical licensing board;	3805
(17) (16) Ohio board of dietetics;	3806
(18) (17) Commission on Hispanic-Latino affairs;	3807
(19) (18) Ohio respiratory care board;	3808
(20) (19) Ohio commission on African-American males;	3809
(21) (20) Chemical dependency professionals board.	3810
(B)(1) Notwithstanding any other section of the Revised Code,	3811
the agency shall perform the following routine support services	3812
for the boards and commissions named in division (A) of this	3813
section unless the controlling board exempts a board or commission	3814
from this requirement on the recommendation of the director of	3815
administrative services:	3816
(a) Preparing and processing payroll and other personnel	3817
documents;	3818
(b) Preparing and processing vouchers, purchase orders,	3819
encumbrances, and other accounting documents;	3820
(c) Maintaining ledgers of accounts and balances;	3821
(d) Preparing and monitoring budgets and allotment plans in	3822
consultation with the boards and commissions;	3823
(e) Other routine support services that the director of	3824
administrative services considers appropriate to achieve	3825
efficiency.	3826
(2) The agency may perform other services which a board or	3827
commission named in division (A) of this section delegates to the	3828
agency and the agency accepts.	3829
(3) The agency may perform any service for any professional	3830
or occupational licensing board not named in division (A) of this	3831
section or any commission if the board or commission requests such	3832

service and the agency accepts. 3833

(C) The director of administrative services shall be the 3834
appointing authority for the agency. 3835

(D) The agency shall determine the fees to be charged to the 3836
boards and commissions, which shall be in proportion to the 3837
services performed for each board or commission. 3838

(E) Each board or commission named in division (A) of this 3839
section and any other board or commission requesting services from 3840
the agency shall pay these fees to the agency from the general 3841
revenue fund maintenance account of the board or commission or 3842
from such other fund as the operating expenses of the board or 3843
commission are paid. Any amounts set aside for a fiscal year by a 3844
board or commission to allow for the payment of fees shall be used 3845
only for the services performed by the agency in that fiscal year. 3846
All receipts collected by the agency shall be deposited in the 3847
state treasury to the credit of the central service agency fund, 3848
which is hereby created. All expenses incurred by the agency in 3849
performing services for the boards or commissions shall be paid 3850
from the fund. 3851

(F) Nothing in this section shall be construed as a grant of 3852
authority for the central service agency to initiate or deny 3853
personnel or fiscal actions for the boards and commissions. 3854

Sec. 125.91. As used in sections 125.92 to 125.98 of the 3855
Revised Code: 3856

(A) "State agency" includes every department, bureau, board, 3857
commission, office, or other organized body established by the 3858
constitution and laws of the state for the exercise of any 3859
function of state government, but does not include any 3860
state-supported institution of higher education, the general 3861
assembly or any legislative agency, the attorney general, the 3862

auditor of state, the secretary of state, the treasurer of state, 3863
the bureau of workers' compensation, any court or judicial agency, 3864
or any political subdivision or agency ~~thereof~~ of a political 3865
subdivision. 3866

(B) "Form" means any document, device, or item used to convey 3867
information, regardless of medium, that has blank spaces for the 3868
insertion of information and that may have a predetermined format 3869
and data elements to guide the entry, ~~interpretation~~ 3870
interpretation, and use of the information. "Form" does not 3871
include letterheads, envelopes, labels, tags, tickets, or note 3872
pads, or forms mandated by the federal government, but does 3873
include all computer-generated forms except those mandated by the 3874
federal government. ~~As used in sections 125.931 to 125.935 of the~~ 3875
~~Revised Code, "form" applies only to a form that is used by a~~ 3876
~~state agency and that is completed in whole or in part by private~~ 3877
~~business, political subdivisions, or the public.~~ 3878

Sec. 125.92. There is hereby established in the department of 3879
administrative services a state forms management ~~control center~~ 3880
program, which shall be under the control and supervision of the 3881
director of administrative services, ~~who shall appoint an~~ 3882
~~administrator of the center~~ or the director's designee. 3883

The ~~center~~ state forms management program shall ~~develop,~~ 3884
~~implement, and maintain a statewide forms management program that~~ 3885
~~involves~~ be developed, implemented, and maintained for all state 3886
agencies and ~~is~~ be designed to simplify, consolidate, or 3887
eliminate, when expedient, forms, surveys, and other documents 3888
used by state agencies. In developing the program, particular 3889
emphasis shall be placed upon determining the actual need for any 3890
information, records, and reports sought from private business, 3891
agriculture, and local governments through the use of ~~such~~ forms, 3892
surveys, and other documents. 3893

~~Sec. 125.93. The state forms management control center~~ 3894
~~program shall do each of the following:~~ 3895

(A) Assist state agencies in establishing internal forms 3896
management capabilities; 3897

(B) Study, develop, coordinate, and initiate forms of 3898
interagency and common administrative usage, and establish basic 3899
design and specification criteria to standardize state forms; 3900

(C) Assist state agencies to design economical forms and 3901
~~compose art work for forms;~~ 3902

(D) ~~Establish and supervise control procedures to prevent the~~ 3903
~~undue creation and reproduction of state forms;~~ 3904

~~(E)~~ Assist, train, and instruct state agencies and their 3905
forms management representatives in forms management techniques, 3906
and provide direct forms management assistance to new state 3907
agencies as they are created; 3908

~~(F)~~(E) Maintain a central ~~cross index~~ forms repository of all 3909
state forms to facilitate standardization of the forms, eliminate 3910
redundant forms, and provide a central source of information on 3911
forms usage and availability; 3912

~~(G)~~ Utilize existing functions within the department of 3913
~~administrative services to design economical forms and compose art~~ 3914
~~work, as well as use appropriate procurement techniques to take~~ 3915
~~advantage of competitive selection, consolidated orders, and~~ 3916
~~contract procurement of forms;~~ 3917

~~(H)~~ Conduct an annual evaluation of the effectiveness of the 3918
~~forms management program and the forms management practices of~~ 3919
~~individual state agencies, and maintain records that indicate~~ 3920
~~dollar savings resulting from, and the number of forms eliminated,~~ 3921
~~simplified, or standardized through, centralized forms management.~~ 3922
The results of the evaluation shall be reported to the speaker of 3923

~~the house of representatives and president of the senate not later~~ 3924
~~than the fifteenth day of January each year. The center shall~~ 3925
~~report on the first day of each month to the state records~~ 3926
~~administrator on its activities during the preceding month.~~ 3927

Sec. 125.95. (A) The ~~administrator of the state forms~~ 3928
~~management control center~~ program may permit any state agency to 3929
manage fully any forms used or proposed to be used by it, whenever 3930
the ~~administrator~~ program determines that the delegation will 3931
result in the most timely and economical method of accomplishing 3932
the objectives of the ~~forms management~~ program as set forth in 3933
section 125.93 of the Revised Code. A determination to delegate to 3934
a state agency authority to manage forms may, among other matters, 3935
take into consideration the benefits of central management of any 3936
form in relation to the costs associated with ~~such~~ that 3937
management. 3938

(B) To expedite the collection and disposition of general 3939
state and local revenue, the ~~administrator~~ state forms management 3940
program shall permit, without prior authorization, the tax 3941
commissioner to design, print or have printed, distribute, and 3942
require the use of those forms ~~which~~ that the tax commissioner 3943
determines are necessary for the proper administration of those 3944
taxes and programs ~~he~~ the tax commissioner administers except as 3945
provided in division (A) of section 4307.05 of the Revised Code. 3946
The tax commissioner shall report to the ~~administrator~~ program not 3947
later than fifteen days after the close of each calendar quarter 3948
with respect to the forms activities occurring within ~~his~~ the tax 3949
commissioner's agency during the preceding calendar quarter. 3950

Sec. 125.96. The director of administrative services may 3951
adopt, amend, or rescind rules necessary to carry out the powers 3952
and duties imposed upon the state forms management ~~control center~~ 3953
~~and its administrator~~ program and state agencies by sections 3954

125.92 to 125.98 of the Revised Code. The director shall adopt, 3955
and may amend or rescind, rules providing ~~that~~ each of the 3956
following: 3957

(A) After a date to be determined by the ~~administrator~~ state 3958
forms management program, no state agency shall utilize any form, 3959
other than a form subject to division (B) of section 125.95 of the 3960
Revised Code, the management of which has not been delegated to 3961
the agency by the ~~administrator~~ program under division (A) of that 3962
section ~~125.95 of the Revised Code~~ or ~~that has not~~ been approved 3963
by the ~~center~~ program. 3964

(B) The notice required by section 125.97 of the Revised Code 3965
shall appear in a standard place and a standard manner on each 3966
form to which the notice applies, and shall include specified 3967
indicia of approval by the ~~administrator~~ state forms management 3968
program. 3969

(C) Any form required by a state agency on an emergency basis 3970
may be given interim approval by the ~~administrator~~ state forms 3971
management program if the form is accompanied by a letter from the 3972
director or other head of the agency setting forth the nature of 3973
the emergency and requesting interim approval. 3974

Sec. 125.98. (A) Each state agency shall appoint a forms 3975
management representative, who may be from existing personnel. The 3976
appointee shall cooperate with, and provide other necessary 3977
assistance to, the director of administrative services and the 3978
~~administrator of the~~ state forms management ~~control center~~ program 3979
in implementing the ~~state forms management~~ program. A forms 3980
management representative shall do all of the following: 3981

(1) Manage the agency's forms management program and 3982
cooperate with and provide other necessary assistance to the 3983
director of administrative services in implementing the state 3984
forms management program; 3985

(2) Monitor the use and reproduction of all forms to ensure 3986
that all policies, procedures, guidelines, and standards 3987
established by the agency and the director of administrative 3988
services are followed; 3989

(3) Ensure that every form used by the agency is presented to 3990
the state forms management ~~control center~~ program for registration 3991
prior to its reproduction; 3992

(4) Maintain a master forms file history file, in numeric 3993
order, of all agency forms; 3994

(5) Verify and update the information on all forms ~~computer~~ 3995
~~file reports returned to the agency by the state forms management~~ 3996
~~control center~~ in the central forms repository database. 3997

(B) Any state agency, as ~~such term is~~ defined in section 1.60 3998
of the Revised Code, not included within the definition of a state 3999
agency in section 125.91 of the Revised Code may elect to 4000
participate in the state forms management program. The ~~center~~ 4001
program may provide to any such agency any service required or 4002
authorized by sections 125.92 to 125.98 of the Revised Code to be 4003
performed for a state agency. 4004

Sec. 126.03. (A) The director of budget and management shall: 4005
4006

(1) Prepare biennially a capital plan and, with the 4007
concurrence of the governor, submit it to the general assembly. 4008
The capital plan shall contain recommendations as to the 4009
acquisition of real estate and the construction of public 4010
improvements. The capital plan shall extend through a period of at 4011
least six years in the future and shall identify the projects 4012
which should be undertaken in each biennium of the period through 4013
which the plan extends, together with estimated costs of all such 4014
recommended projects. 4015

(2) Require biennially, from the chief administrative 4016
authorities of affected state agencies, their recommendations as 4017
to the acquisition of real estate and construction of public 4018
improvements which will be needed through a period of at least six 4019
years in the future, together with a description of each proposed 4020
public improvement and the estimated capacity of the improvement 4021
in terms of its proposed use; a demonstration of the need for the 4022
real estate or public improvement, including the effects and 4023
efficacy of any such improvement relative to meeting the projected 4024
needs of affected clients, customers, constituents, patients, 4025
inmates, or other persons based on a survey and analysis by the 4026
agency of those needs; the benefits in governmental operations 4027
expected to result from the acquisition or construction; the 4028
state agencies ~~which~~ that will occupy or control the real estate 4029
or improvement; and the location of the real estate or public 4030
improvement. The director shall evaluate such recommended projects 4031
as to their validity ~~and as to~~, the comparative degree of need 4032
among them, and their efficacy in meeting client, customer, 4033
constituent, patient, inmate, or other needs based on the 4034
information submitted; notify the chief administrative authorities 4035
of the recommending agencies of the action taken on each such 4036
recommendation; and consult with and seek the recommendations of 4037
the chief administrative authorities of the affected agencies on 4038
all projects being considered for inclusion in the capital plan, 4039
whether originally proposed by the director of budget and 4040
management or by a state agency. 4041

(3) At the request and with the concurrence of the governor, 4042
prepare and recommend to the general assembly a biennial capital 4043
budget that includes the recommendations of the director as to 4044
projects to be undertaken or revised during the fiscal biennium 4045
following the latest biennium for which a capital appropriations 4046
act was enacted. The capital budget shall include all projects 4047

~~which that~~ the director considers to be necessary and feasible, 4048
whether originally proposed by the director or by a state agency. 4049
Submitted with that budget shall be a summary of the client, 4050
customer, constituent, patient, inmate, or other needs information 4051
submitted under division (A)(2) of this section for the included 4052
projects. 4053

(B) In the capital plan and capital budget prepared under 4054
this section, the director of budget and management shall not 4055
provide for the acquisition of rights-of-way for, construction of, 4056
or reconstruction of transportation facilities by the director of 4057
transportation, other than transportation facilities financed by 4058
the Ohio building authority. Division (A)(2) of this section does 4059
not require the director of transportation to provide to the 4060
director of budget and management recommendations for the 4061
acquisition of rights-of-way for, construction of, or 4062
reconstruction of transportation facilities, other than 4063
transportation facilities financed by the Ohio building authority. 4064

Sec. 127.16. (A) Upon the request of either a state agency or 4065
the director of budget and management and after the controlling 4066
board determines that an emergency or a sufficient economic reason 4067
exists, the controlling board may approve the making of a purchase 4068
without competitive selection as provided in division (B) of this 4069
section. 4070

(B) Except as otherwise provided in this section, no state 4071
agency, using money that has been appropriated to it directly, 4072
shall: 4073

(1) Make any purchase from a particular supplier, that would 4074
amount to fifty thousand dollars or more when combined with both 4075
the amount of all disbursements to the supplier during the fiscal 4076
year for purchases made by the agency and the amount of all 4077
outstanding encumbrances for purchases made by the agency from the 4078

supplier, unless the purchase is made by competitive selection or 4079
with the approval of the controlling board; 4080

(2) Lease real estate from a particular supplier, if the 4081
lease would amount to seventy-five thousand dollars or more when 4082
combined with both the amount of all disbursements to the supplier 4083
during the fiscal year for real estate leases made by the agency 4084
and the amount of all outstanding encumbrances for real estate 4085
leases made by the agency from the supplier, unless the lease is 4086
made by competitive selection or with the approval of the 4087
controlling board. 4088

(C) Any person who authorizes a purchase in violation of 4089
division (B) of this section shall be liable to the state for any 4090
state funds spent on the purchase, and the attorney general shall 4091
collect the amount from the person. 4092

(D) Nothing in division (B) of this section shall be 4093
construed as: 4094

(1) A limitation upon the authority of the director of 4095
transportation as granted in sections 5501.17, 5517.02, and 4096
5525.14 of the Revised Code; 4097

(2) Applying to medicaid provider agreements under Chapter 4098
5111. of the Revised Code or payments or provider agreements under 4099
the disability ~~assistance~~ medical assistance program established 4100
under Chapter 5115. of the Revised Code; 4101

(3) Applying to the purchase of examinations from a sole 4102
supplier by a state licensing board under Title XLVII of the 4103
Revised Code; 4104

(4) Applying to entertainment contracts for the Ohio state 4105
fair entered into by the Ohio expositions commission, provided 4106
that the controlling board has given its approval to the 4107
commission to enter into such contracts and has approved a total 4108
budget amount for such contracts as agreed upon by commission 4109

action, and that the commission causes to be kept itemized records 4110
of the amounts of money spent under each contract and annually 4111
files those records with the clerk of the house of representatives 4112
and the clerk of the senate following the close of the fair; 4113

(5) Limiting the authority of the chief of the division of 4114
mineral resources management to contract for reclamation work with 4115
an operator mining adjacent land as provided in section 1513.27 of 4116
the Revised Code; 4117

(6) Applying to investment transactions and procedures of any 4118
state agency, except that the agency shall file with the board the 4119
name of any person with whom the agency contracts to make, broker, 4120
service, or otherwise manage its investments, as well as the 4121
commission, rate, or schedule of charges of such person with 4122
respect to any investment transactions to be undertaken on behalf 4123
of the agency. The filing shall be in a form and at such times as 4124
the board considers appropriate. 4125

(7) Applying to purchases made with money for the per cent 4126
for arts program established by section 3379.10 of the Revised 4127
Code; 4128

(8) Applying to purchases made by the rehabilitation services 4129
commission of services, or supplies, that are provided to persons 4130
with disabilities, or to purchases made by the commission in 4131
connection with the eligibility determinations it makes for 4132
applicants of programs administered by the social security 4133
administration; 4134

(9) Applying to payments by the department of job and family 4135
services under section 5111.13 of the Revised Code for group 4136
health plan premiums, deductibles, coinsurance, and other 4137
cost-sharing expenses; 4138

(10) Applying to any agency of the legislative branch of the 4139
state government; 4140

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.21, or 5101.211 of the Revised Code;	4141 4142
(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;	4143 4144 4145 4146
(13) Applying to dues or fees paid for membership in an organization or association;	4147 4148
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	4149 4150
(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;	4151 4152 4153 4154
(16) Applying to purchases of tickets for passenger air transportation;	4155 4156
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	4157 4158 4159
(18) Applying to the judicial branch of state government;	4160
(19) Applying to purchases of liquor for resale by the division of liquor control;	4161 4162
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	4163 4164 4165
(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;	4166 4167 4168 4169

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	4170 4171 4172
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	4173 4174
(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;	4175 4176 4177 4178
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;	4179 4180
(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;	4181 4182 4183 4184 4185
(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;	4186 4187 4188
(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;	4189 4190 4191
(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.	4192 4193 4194 4195 4196 4197
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract	4198 4199

between the vendor and an inter-university purchasing group 4200
comprised of purchasing officers of state institutions of higher 4201
education; 4202

(31) Applying to the department of job and family services' 4203
purchases of health assistance services under the children's 4204
health insurance program part I provided for under section 5101.50 4205
of the Revised Code or the children's health insurance program 4206
part II provided for under section 5101.51 of the Revised Code; 4207

(32) Applying to payments by the attorney general from the 4208
reparations fund to hospitals and other emergency medical 4209
facilities for performing medical examinations to collect physical 4210
evidence pursuant to section 2907.28 of the Revised Code; 4211

(33) Applying to contracts with a contracting authority or 4212
administrative receiver under division (G)(2) of section 5126.055 4213
of the Revised Code. 4214

(E) Notwithstanding division (B)(1) of this section, the 4215
cumulative purchase threshold shall be seventy-five thousand 4216
dollars for the departments of mental retardation and 4217
developmental disabilities, mental health, rehabilitation and 4218
correction, and youth services. 4219

(F) When determining whether a state agency has reached the 4220
cumulative purchase thresholds established in divisions (B)(1), 4221
(B)(2), and (E) of this section, all of the following purchases by 4222
such agency shall not be considered: 4223

(1) Purchases made through competitive selection or with 4224
controlling board approval; 4225

(2) Purchases listed in division (D) of this section; 4226

(3) For the purposes of the thresholds of divisions (B)(1) 4227
and (E) of this section only, leases of real estate. 4228

(G) As used in this section, "competitive selection," 4229

"purchase," "supplies," and "services" have the same meanings as 4230
in section 125.01 of the Revised Code. 4231

Sec. 131.02. (A) Whenever any amount is payable to the state, 4232
the officer, employee, or agent responsible for administering the 4233
law under which the amount is payable shall immediately proceed to 4234
collect the amount or cause the amount to be collected and shall 4235
pay the amount into the state treasury or into the appropriate 4236
custodial fund in the manner set forth pursuant to section 113.08 4237
of the Revised Code. If the amount is not paid within forty-five 4238
days after payment is due, the officer, employee, or agent shall 4239
certify the amount due to the attorney general, in the form and 4240
manner prescribed by the attorney general, and notify the director 4241
of budget and management thereof. 4242

(B)(1) The attorney general shall give immediate notice by 4243
mail or otherwise to the party indebted of the nature and amount 4244
of the indebtedness. 4245

(2) If the amount payable to this state arises from a tax 4246
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 4247
Code, the notice also shall specify all of the following: 4248

(a) The assessment or case number; 4249

(b) The tax pursuant to which the assessment is made; 4250

(c) The reason for the liability, including, if applicable, 4251
that a penalty or interest is due; 4252

(d) An explanation of how and when interest will be added to 4253
the amount assessed; 4254

(e) That the attorney general and tax commissioner, acting 4255
together, have the authority, but are not required, to compromise 4256
the claim and accept payment over a reasonable time, if such 4257
actions are in the best interest of the state. 4258

(C) The attorney general shall collect the claim or secure a 4259

judgment and issue an execution for its collection. 4260

(D) Each claim shall bear interest, from the day on which the 4261
claim became due, at the ~~base~~ rate per annum ~~for advances and~~ 4262
~~discounts to member banks in effect at the federal reserve bank in~~ 4263
required by section 5703.47 of the second federal reserve district 4264
Revised Code. 4265

(E) The attorney general and the chief officer of the agency 4266
reporting a claim, acting together, may do ~~either or both~~ any of 4267
the following if such action is in the best interests of the 4268
state: 4269

(1) Compromise the claim; 4270

(2) Extend for a reasonable period the time for payment of 4271
the claim by agreeing to accept monthly or other periodic 4272
payments. The agreement may require security for payment of the 4273
claim. 4274

(3) Add fees to recover the cost of processing checks or 4275
other draft instruments returned for insufficient funds and the 4276
cost of providing electronic payment options. 4277

Sec. 131.23. The various political subdivisions of this state 4278
may issue bonds, and any indebtedness created by such issuance 4279
shall not be subject to the limitations or included in the 4280
calculation of indebtedness prescribed by sections 133.05, 133.06, 4281
133.07, and 133.09 of the Revised Code, but such bonds may be 4282
issued only under the following conditions: 4283

(A) The subdivision desiring to issue such bonds shall obtain 4284
from the county auditor a certificate showing the total amount of 4285
delinquent taxes due and unpayable to such subdivision at the last 4286
semiannual tax settlement. 4287

(B) The fiscal officer of that subdivision shall prepare a 4288
statement, from the books of the subdivision, verified by ~~him~~ the 4289

<u>fiscal officer</u> under oath, which shall contain the following facts	4290
of such subdivision:	4291
(1) The total bonded indebtedness;	4292
(2) The aggregate amount of notes payable or outstanding	4293
accounts of the subdivision, incurred prior to the commencement of	4294
the current fiscal year, which shall include all evidences of	4295
indebtedness issued by the subdivision except notes issued in	4296
anticipation of bond issues and the indebtedness of any	4297
nontax-supported public utility;	4298
(3) Except in the case of school districts, the aggregate	4299
current year's requirement for disability <u>financial assistance and</u>	4300
<u>disability medical</u> assistance provided under Chapter 5115. of the	4301
Revised Code that the subdivision is unable to finance except by	4302
the issue of bonds;	4303
(4) The indebtedness outstanding through the issuance of any	4304
bonds or notes pledged or obligated to be paid by any delinquent	4305
taxes;	4306
(5) The total of any other indebtedness;	4307
(6) The net amount of delinquent taxes unpledged to pay any	4308
bonds, notes, or certificates, including delinquent assessments on	4309
improvements on which the bonds have been paid;	4310
(7) The budget requirements for the fiscal year for bond and	4311
note retirement;	4312
(8) The estimated revenue for the fiscal year.	4313
(C) The certificate and statement provided for in divisions	4314
(A) and (B) of this section shall be forwarded to the tax	4315
commissioner together with a request for authority to issue bonds	4316
of such subdivision in an amount not to exceed seventy per cent of	4317
the net unobligated delinquent taxes and assessments due and owing	4318
to such subdivision, as set forth in division (B)(6) of this	4319

section. 4320

(D) No subdivision may issue bonds under this section in 4321
excess of a sufficient amount to pay the indebtedness of the 4322
subdivision as shown by division (B)(2) of this section and, 4323
except in the case of school districts, to provide funds for 4324
disability financial assistance and disability medical assistance, 4325
as shown by division (B)(3) of this section. 4326

(E) The tax commissioner shall grant to such subdivision 4327
authority requested by such subdivision as restricted by divisions 4328
(C) and (D) of this section and shall make a record of the 4329
certificate, statement, and grant in a record book devoted solely 4330
to such recording and which shall be open to inspection by the 4331
public. 4332

(F) The commissioner shall immediately upon issuing the 4333
authority provided in division (E) of this section notify the 4334
proper authority having charge of the retirement of bonds of such 4335
subdivision by forwarding a copy of such grant of authority and of 4336
the statement provided for in division (B) of this section. 4337

(G) Upon receipt of authority, the subdivision shall proceed 4338
according to law to issue the amount of bonds authorized by the 4339
commissioner, and authorized by the taxing authority, provided the 4340
taxing authority of that subdivision may by resolution submit to 4341
the electors of that subdivision the question of issuing such 4342
bonds. Such resolution shall make the declarations and statements 4343
required by section 133.18 of the Revised Code. The county auditor 4344
and taxing authority shall thereupon proceed as set forth in 4345
divisions (C) and (D) of such section. The election on the 4346
question of issuing such bonds shall be held under divisions (E), 4347
(F), and (G) of such section, except that publication of the 4348
notice of such election shall be made on four separate days prior 4349
to such election in one or more newspapers of general circulation 4350
in the subdivisions. Such bonds may be exchanged at their face 4351

value with creditors of the subdivision in liquidating the 4352
indebtedness described and enumerated in division (B)(2) of this 4353
section or may be sold as provided in Chapter 133. of the Revised 4354
Code, and in either event shall be uncontestable. 4355

(H) The per cent of delinquent taxes and assessments 4356
collected for and to the credit of the subdivision after the 4357
exchange or sale of bonds as certified by the commissioner shall 4358
be paid to the authority having charge of the sinking fund of the 4359
subdivision, which money shall be placed in a separate fund for 4360
the purpose of retiring the bonds so issued. The proper authority 4361
of the subdivisions shall provide for the levying of a tax 4362
sufficient in amount to pay the debt charges on all such bonds 4363
issued under this section. 4364

(I) This section is for the sole purpose of assisting the 4365
various subdivisions in paying their unsecured indebtedness, and 4366
providing funds for disability financial assistance and disability 4367
medical assistance. The bonds issued under authority of this 4368
section shall not be used for any other purpose and any exchange 4369
for other purposes, or the use of the money derived from the sale 4370
of such bonds by the subdivision for any other purpose, is 4371
misapplication of funds. 4372

(J) The bonds authorized by this section shall be redeemable 4373
or payable in not to exceed ten years from date of issue and shall 4374
not be subject to or considered in calculating the net 4375
indebtedness of the subdivision. The budget commission of the 4376
county in which the subdivision is located shall annually allocate 4377
such portion of the then delinquent levy due such subdivision 4378
which is unpledged for other purposes to the payment of debt 4379
charges on the bonds issued under authority of this section. 4380

(K) The issue of bonds under this section shall be governed 4381
by Chapter 133. of the Revised Code, respecting the terms used, 4382
forms, manner of sale, and redemption except as otherwise provided 4383

in this section. 4384

The board of county commissioners of any county may issue 4385
bonds authorized by this section and distribute the proceeds of 4386
such bond issues to any or all of the cities and townships of such 4387
counties, according to their relative needs for disability 4388
financial assistance and disability medical assistance as 4389
determined by such county. 4390

All sections of the Revised Code inconsistent with or 4391
prohibiting the exercise of the authority conferred by this 4392
section are inoperative respecting bonds issued under this 4393
section. 4394

Sec. 131.35. (A) With respect to the federal funds received 4395
into any fund of the state from which transfers may be made under 4396
division (D) of section 127.14 of the Revised Code: 4397

(1) No state agency may make expenditures of any federal 4398
funds, whether such funds are advanced prior to expenditure or as 4399
reimbursement, unless such expenditures are made pursuant to 4400
specific appropriations of the general assembly ~~identifying the~~ 4401
~~federal program that is the source of funds, are authorized~~ 4402
~~pursuant to section 131.38 of the Revised Code, are authorized by~~ 4403
the controlling board pursuant to division (A)(5) of this section, 4404
or are authorized by an executive order issued in accordance with 4405
section 107.17 of the Revised Code, and until an allotment has 4406
been approved by the director of budget and management. All 4407
federal funds received by a state agency shall be reported to the 4408
director within fifteen days of the receipt of such funds or the 4409
notification of award, whichever occurs first. The director shall 4410
prescribe the forms and procedures to be used when reporting the 4411
receipt of federal funds. 4412

(2) If the federal funds received are greater than the amount 4413
of such funds appropriated by the general assembly for a specific 4414

purpose, the total appropriation of federal and state funds for 4415
such purpose shall remain at the amount designated by the general 4416
assembly, except that the expenditure of federal funds received in 4417
excess of such specific appropriation may be authorized by the 4418
controlling board. 4419

(3) To the extent that the expenditure of excess federal 4420
funds is authorized, the controlling board may transfer a like 4421
amount of general revenue fund appropriation authority from the 4422
affected agency to the emergency purposes appropriation of the 4423
controlling board, if such action is permitted under federal 4424
regulations. 4425

(4) Additional funds may be created by the controlling board 4426
to receive revenues not anticipated in an appropriations act for 4427
the biennium in which such new revenues are received. Expenditures 4428
from such additional funds may be authorized by the controlling 4429
board, but such authorization shall not extend beyond the end of 4430
the biennium in which such funds are created. 4431

(5) Controlling board authorization for a state agency to 4432
make an expenditure of federal funds constitutes authority for the 4433
agency to participate in the federal program providing the funds, 4434
and the agency is not required to obtain an executive order under 4435
section 107.17 of the Revised Code to participate in the federal 4436
program. 4437

(B) With respect to nonfederal funds received into the 4438
waterways safety fund, the wildlife fund, and any fund of the 4439
state from which transfers may be made under division (D) of 4440
section 127.14 of the Revised Code: 4441

(1) No state agency may make expenditures of any such funds 4442
unless the expenditures are made pursuant to specific 4443
appropriations of the general assembly. 4444

(2) If the receipts received into any fund are greater than 4445

the amount appropriated, the appropriation for that fund shall 4446
remain at the amount designated by the general assembly or as 4447
increased and approved by the controlling board. 4448

(3) Additional funds may be created by the controlling board 4449
to receive revenues not anticipated in an appropriations act for 4450
the biennium in which such new revenues are received. Expenditures 4451
from such additional funds may be authorized by the controlling 4452
board, but such authorization shall not extend beyond the end of 4453
the biennium in which such funds are created. 4454

(C) The controlling board shall not authorize more than ten 4455
per cent of additional spending from the occupational licensing 4456
and regulatory fund, created in section 4743.05 of the Revised 4457
Code, in excess of any appropriation made by the general assembly 4458
to a licensing agency except an appropriation for costs related to 4459
the examination or reexamination of applicants for a license. As 4460
used in this division, "licensing agency" and "license" have the 4461
same meanings as in section 4745.01 of the Revised Code. 4462

Sec. 135.22. (A) For purposes of this section: 4463

(1) "Treasurer" has the same meaning as in section 135.01 of 4464
the Revised Code, but does not include the treasurer of state. 4465
"Treasurer" includes any person whose duties include making 4466
investment decisions with respect to the investment or deposit of 4467
interim moneys. 4468

(2) "Subdivision" has the same meaning as in section 135.01 4469
of the Revised Code. 4470

(B) To enhance the background and working knowledge of 4471
treasurers in investments, cash management, and ethics, the 4472
treasurer of state shall provide annual continuing education 4473
programs for treasurers. A treasurer ~~annually~~ on a biennial basis 4474
shall complete the continuing education programs described in this 4475

section, unless the treasurer ~~annually~~ provides a notice of 4476
exemption described in division (E) of this section. 4477

(C) The treasurer of state shall determine the manner, 4478
content, and length of the continuing education programs after 4479
consultation with appropriate statewide organizations of local 4480
government officials. 4481

(D) Upon successful completion of a continuing education 4482
program required by this section, the treasurer of state shall 4483
issue a certificate indicating that the treasurer has successfully 4484
completed the continuing education program prescribed by the 4485
treasurer of state. The treasurer of state shall forward to the 4486
auditor of state any certificates issued pursuant to this division 4487
by the treasurer of state. The auditor of state shall maintain in 4488
the ~~auditor's~~ auditor of state's records any certificates 4489
forwarded by the treasurer of state pursuant to this division. As 4490
part of the auditor of state's audit of the subdivision conducted 4491
in accordance with section 117.11 of the Revised Code, the auditor 4492
of state shall report whether the treasurer is in compliance with 4493
this section of the Revised Code. 4494

(E) Division (B) of this section does not apply to any 4495
treasurer who ~~annually~~ provides a notice of exemption to the 4496
auditor of state. The notice shall be certified by the treasurer 4497
of state and shall provide that the treasurer is not subject to 4498
the continuing education requirements set forth in division (B) of 4499
this section, because the treasurer invests or deposits public 4500
moneys in the following investments only: 4501

(1) Interim deposits pursuant to division (B)(3) of section 4502
135.14 of the Revised Code; 4503

(2) No-load money market mutual funds pursuant to division 4504
(B)(5) of section 135.14 of the Revised Code; 4505

(3) The Ohio subdivision's fund pursuant to division (B)(6) 4506

of section 135.14 of the Revised Code. 4507

(F) In carrying out the duties required by this section, the 4508
treasurer of state may charge the subdivision served by the 4509
treasurer a registration fee that will meet actual and necessary 4510
expenses in connection with the training of the treasurer, 4511
including instruction fees, site acquisition costs, and the cost 4512
of course materials. Any necessary personal expenses of a 4513
treasurer incurred as a result of attending the continuing 4514
education courses shall be borne by the subdivision represented by 4515
the treasurer. 4516

(G) The treasurer of state may allow any other interested 4517
person to attend any of the continuing education programs that are 4518
held pursuant to this section, provided that before attending any 4519
such continuing education program, the interested person has paid 4520
to the treasurer of state the full registration fee set for the 4521
continuing education program. 4522

(H) All funds collected pursuant to this section shall be 4523
paid into the county treasurer education fund created pursuant to 4524
section 321.46 of the Revised Code, and the actual and necessary 4525
expenses of the treasurer of state in conducting the continuing 4526
education programs required by this section shall be paid from 4527
this fund. 4528

(I) The treasurer of state may adopt reasonable rules not 4529
inconsistent with this section for the implementation of this 4530
section. 4531

Sec. 147.01. (A) The secretary of state may appoint and 4532
commission as notaries public as many persons who meet the 4533
qualifications of division (B) of this section as the secretary of 4534
state considers necessary. 4535

(B) In order for a person to qualify to be appointed and 4536

commissioned as a notary public, the person must satisfy both of 4537
the following: 4538

(1) The person has attained the age of eighteen years. 4539

(2) One of the following applies: 4540

(a) The person is a ~~citizen~~ legal resident of this state who 4541
is not an attorney admitted to the practice of law in this state 4542
by the Ohio supreme court. 4543

(b) The person is a ~~citizen~~ legal resident of this state who 4544
is an attorney admitted to the practice of law in this state by 4545
the Ohio supreme court. 4546

(c) The person is not a ~~citizen~~ legal resident of this state, 4547
is an attorney admitted to the practice of law in this state by 4548
the Ohio supreme court, and has the person's principal place of 4549
business or the person's primary practice in this state. 4550

(C) A notary public shall be appointed and commissioned as a 4551
notary public for the state. The secretary of state may revoke a 4552
commission issued to a notary public upon presentation of 4553
satisfactory evidence of official misconduct or incapacity. 4554

Sec. 147.37. Each person receiving a commission as notary 4555
public, ~~except~~ including an attorney admitted to the practice of 4556
law in this state by the Ohio supreme court, shall pay a fee of 4557
~~five~~ fifteen dollars to the secretary of state. ~~Each person~~ 4558
~~receiving a commission as a notary public who is an attorney~~ 4559
~~admitted to the practice of law in this state by the Ohio supreme~~ 4560
~~court shall pay a fee of ten dollars to the secretary of state.~~ 4561

Sec. 149.011. As used in this chapter: 4562

(A) "Public office" includes any state agency, public 4563
institution, political subdivision, or ~~any~~ other organized body, 4564
office, agency, institution, or entity established by the laws of 4565

this state for the exercise of any function of government. 4566

(B) "State agency" includes every department, bureau, board, 4567
commission, office, or other organized body established by the 4568
constitution and laws of this state for the exercise of any 4569
function of state government, including any state-supported 4570
institution of higher education, the general assembly, ~~or~~ any 4571
legislative agency, any court or judicial agency, or any political 4572
subdivision or agency ~~thereof~~ of a political subdivision. 4573

(C) "Public money" includes all money received or collected 4574
by or due a public official, whether in accordance with or under 4575
authority of any law, ordinance, resolution, or order, under color 4576
of office, or otherwise. It also includes any money collected by 4577
any individual on behalf of a public office or as a purported 4578
representative or agent of the public office. 4579

(D) "Public official" includes all officers, employees, or 4580
duly authorized representatives or agents of a public office. 4581

(E) "Color of office" includes any act purported or alleged 4582
to be done under any law, ordinance, resolution, order, or other 4583
pretension to official right, power, or authority. 4584

(F) "Archive" includes any public record that is transferred 4585
to the state archives or other designated archival institutions 4586
because of the historical information contained on it. 4587

(G) "Records" includes any document, device, or item, 4588
regardless of physical form or characteristic, including an 4589
electronic record as defined in section 1306.01 of the Revised 4590
Code, created or received by or coming under the jurisdiction of 4591
any public office of the state or its political subdivisions, 4592
which serves to document the organization, functions, policies, 4593
decisions, procedures, operations, or other activities of the 4594
office. 4595

Sec. 149.30. The Ohio historical society, chartered by this 4596
state as a corporation not for profit to promote a knowledge of 4597
history and archaeology, especially of Ohio, and operated 4598
continuously in the public interest since 1885, may perform public 4599
functions as prescribed by law. 4600

The general assembly may appropriate money to the Ohio 4601
historical society each biennium to carry out the public functions 4602
of the society as enumerated in this section. An appropriation by 4603
the general assembly to the society constitutes an offer to 4604
contract with the society to carry out those public functions for 4605
which appropriations are made. An acceptance by the society of the 4606
appropriated funds constitutes an acceptance by the society of the 4607
offer and is considered an agreement by the society to perform 4608
those functions in accordance with the terms of the appropriation 4609
and the law and to expend the funds only for the purposes for 4610
which appropriated. The governor may request on behalf of the 4611
society, and the controlling board may release, additional funds 4612
to the society for survey, salvage, repair, or rehabilitation of 4613
an emergency nature for which funds have not been appropriated, 4614
and acceptance by the society of those funds constitutes an 4615
agreement on the part of the society to expend those funds only 4616
for the purpose for which released by the controlling board. 4617

The society shall faithfully expend and apply all moneys 4618
received from the state to the uses and purposes directed by law 4619
and for necessary administrative expenses. The society shall 4620
perform the public function of sending notice by certified mail to 4621
the owner of any property at the time it is listed on the national 4622
register of historic places. The society shall accurately record 4623
all expenditures of such funds in conformity with generally 4624
accepted accounting principles. 4625

The auditor of state shall audit all funds and fiscal records 4626

of the society. 4627

The public functions to be performed by the Ohio historical 4628
society shall include all of the following: 4629

(A) Creating, supervising, operating, protecting, 4630
maintaining, and promoting for public use a system of state 4631
memorials, titles to which may reside wholly or in part with this 4632
state or wholly or in part with the society as provided in and in 4633
conformity to appropriate acts and resolves of the general 4634
assembly, and leasing for renewable periods of two years or less, 4635
with the advice and consent of the attorney general and the 4636
director of administrative services, lands and buildings owned by 4637
the state which are in the care, custody, and control of the 4638
society, all of which shall be maintained and kept for public use 4639
at reasonable hours; 4640

(B) Making alterations and improvements, marking, and 4641
constructing, reconstructing, protecting, or restoring structures, 4642
earthworks, and monuments in its care, and equipping such 4643
facilities with appropriate educational maintenance facilities; 4644

(C) Serving as the archives administration for the state and 4645
its political subdivisions as provided in sections 149.31 to 4646
149.42 of the Revised Code; 4647

(D) Administering a state historical museum, to be the 4648
headquarters of the society and its principal museum and library, 4649
which shall be maintained and kept for public use at reasonable 4650
hours; 4651

(E) Establishing a marking system to identify all designated 4652
historic and archaeological sites within the state and marking or 4653
causing to be marked historic sites and communities considered by 4654
the society to be historically or archaeologically significant; 4655

(F) Publishing books, pamphlets, periodicals, and other 4656
publications about history, archaeology, and natural science and 4657

~~supplying~~ offering one copy of each regular periodical issue to 4658
all public libraries in this state ~~without charge~~ at a reasonable 4659
price, which shall not exceed ten per cent of the total cost of 4660
publication; 4661

(G) Engaging in research in history, archaeology, and natural 4662
science and providing historical information upon request to all 4663
state agencies; 4664

(H) Collecting, preserving, and making available by all 4665
appropriate means and under approved safeguards all manuscript, 4666
print, or near-print library collections and all historical 4667
objects, specimens, and artifacts which pertain to the history of 4668
Ohio and its people, including the following original documents: 4669
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 4670
Ohio Constitution of 1875; design and the letters of patent and 4671
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 4672
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 4673
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 4674
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 4675
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 4676
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 4677
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 4678
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 4679
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 4680
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 4681
(1947); 4682

(I) Encouraging and promoting the organization and 4683
development of county and local historical societies; 4684

(J) Providing to Ohio schools ~~with~~ such materials ~~at cost or~~ 4685
~~near cost~~ as the society may prepare to facilitate the instruction 4686
of Ohio history at a reasonable price, which shall not exceed ten 4687
per cent of the total cost of preparation; 4688

(K) Providing advisory and technical assistance to local societies for the preservation and restoration of historic and archaeological sites;

(L) Devising uniform criteria for the designation of historic and archaeological sites throughout the state and advising local historical societies of the criteria and their application;

(M) Taking inventory, in cooperation with the Ohio arts council, the Ohio archaeological council, and the archaeological society of Ohio, of significant designated and undesignated state and local sites and keeping an active registry of all designated sites within the state;

(N) Contracting with the owners or persons having an interest in designated historic or archaeological sites or property adjacent or contiguous to those sites, or acquiring, by purchase, gift, or devise, easements in those sites or in property adjacent or contiguous to those sites, in order to control or restrict the use of those historic or archaeological sites or adjacent or contiguous property for the purpose of restoring or preserving the historical or archaeological significance or educational value of those sites;

(O) Constructing a monument honoring Governor James A. Rhodes, which shall stand on the northeast quadrant of the grounds surrounding the capitol building. The monument shall be constructed with private funds donated to the Ohio historical society and designated for this purpose. No public funds shall be expended to construct this monument. The department of administrative services shall cooperate with the Ohio historical society in carrying out this function and shall maintain the monument in a manner compatible with the grounds of the capitol building.

(P) Commissioning a portrait of each departing governor,

which shall be displayed in the capitol building. The Ohio 4720
historical society may accept private contributions designated for 4721
this purpose and, at the discretion of its board of trustees, also 4722
may apply for the same purpose funds appropriated by the general 4723
assembly to the society pursuant to this section. 4724

(Q) Planning and developing a center at the capitol building 4725
for the purpose of educating visitors about the history of Ohio, 4726
including its political, economic, and social development and the 4727
design and erection of the capitol building and its grounds. The 4728
Ohio historical society may accept contributions of private moneys 4729
and in-kind services designated for this purpose and may, at the 4730
discretion of its board of trustees, also apply, for the same 4731
purpose, personnel and other resources paid in whole or in part by 4732
its state subsidy. 4733

(R) Submitting an annual report of its activities, programs, 4734
and operations to the governor within two months after the close 4735
of each fiscal year of the state. 4736

The society shall not sell, mortgage, transfer, or dispose of 4737
historical or archaeological sites to which it has title and in 4738
which the state has monetary interest except by action of the 4739
general assembly. 4740

In consideration of the public functions performed by the 4741
Ohio historical society for the state, employees of the society 4742
shall be considered public employees within the meaning of section 4743
145.01 of the Revised Code. 4744

Sec. 149.33. (A) The department of administrative services 4745
shall have ~~full~~ responsibility for establishing and administering 4746
a state records program for all state agencies, except for 4747
state-supported institutions of higher education. The department 4748
shall apply efficient and economical management methods to the 4749
creation, utilization, maintenance, retention, preservation, and 4750

disposition of state records. 4751

There is hereby established within the department of 4752
administrative services ~~an office of a~~ state records 4753
~~administration~~ program, which shall be under the control and 4754
supervision of the director of administrative services or ~~his~~ the 4755
director's appointed deputy. ~~The director shall designate an~~ 4756
~~administrator of the office of state records administration.~~ 4757

(B) The boards of trustees of state-supported institutions of 4758
higher education shall have full responsibility for establishing 4759
and administering a records program for their respective 4760
institutions. The boards shall apply efficient and economical 4761
management methods to the creation, utilization, maintenance, 4762
retention, preservation, and disposition of the records of their 4763
respective institutions. 4764

Sec. 149.331. The state ~~record administration~~ records program 4765
of the department of administrative services shall do all of the 4766
following: 4767

(A) Establish and promulgate in consultation with the state 4768
archivist standards, procedures, and techniques for the effective 4769
management of state records; 4770

~~(B) Make continuing surveys of record keeping operations and 4771
recommend improvements in current records management practices 4772
including the use of space, equipment, and supplies employed in 4773
creating, maintaining, storing, and servicing records;~~ 4774

~~(C) Establish and operate such state records centers and 4775
auxiliary facilities as may be authorized by appropriation and 4776
provide such related services as are deemed necessary for the 4777
preservation, screening, storage, and servicing of state records 4778
pending disposition;~~ 4779

~~(D) Review applications for one-time records disposal and 4780~~

schedules of records retention and destruction submitted by state 4781
agencies in accordance with section 149.333 of the Revised Code; 4782

~~(E)~~(C) Establish "general schedules" proposing the disposal, 4783
after the lapse of specified periods of time, of records of 4784
specified form or character common to several or all agencies that 4785
either have accumulated or may accumulate in such agencies and 4786
that apparently will not, after the lapse of the periods 4787
specified, have sufficient administrative, legal, fiscal, or other 4788
value to warrant their further preservation by the state; 4789

~~(F)~~(D) Establish and maintain a records management training 4790
program, and provide a basic consulting service, for personnel 4791
involved in record-making and record-keeping functions of 4792
departments, offices, and institutions; 4793

~~(G) Obtain reports from departments, offices, and 4794
institutions necessary for the effective administration of the 4795
program;~~ 4796

~~(H)~~(E) Provide for the disposition of any remaining records 4797
of any state agency, board, or commission, whether in the 4798
executive, judicial, or legislative branch of government, that has 4799
terminated its operations. After the closing of the Ohio veterans' 4800
children's home, the resident records of the home and the resident 4801
records of the home when it was known as the soldiers' and 4802
sailors' orphans' home required to be maintained by approved 4803
records retention schedules shall be administered by the state 4804
department of education pursuant to this chapter, the 4805
administrative records of the home required to be maintained by 4806
approved records retention schedules shall be administered by the 4807
department of administrative services pursuant to this chapter, 4808
and historical records of the home shall be transferred to an 4809
appropriate archival institution in this state prescribed by the 4810
state ~~record administration~~ records program. 4811

~~(I)~~(F) Establish a centralized program coordinating 4812
micrographics standards, training, and services for the benefit of 4813
all state agencies; 4814

~~(J)~~(G) Establish and publish in accordance with the 4815
applicable law necessary procedures and rules for the retention 4816
and disposal of state records. 4817

This section does not apply to the records of state-supported 4818
institutions of higher education, which shall keep their own 4819
records. 4820

Sec. 149.332. Upon request the ~~state records administrator~~ 4821
director of administrative services and the state archivist shall 4822
assist and advise in the establishment of records management 4823
programs in the legislative and judicial branches of state 4824
government and shall, as required by them, provide program 4825
services similar to those available to the executive branch 4826
~~pursuant to~~ under section 149.33 of the Revised Code. Prior to the 4827
disposal of any records, the state archivist shall be allowed 4828
sixty days to select for preservation in the state archives those 4829
records ~~he~~ the state archivist determines to have continuing 4830
historical value. 4831

Sec. 149.333. No state agency shall retain, destroy, or 4832
otherwise transfer its state records in violation of this section. 4833
This section does not apply to state-supported institutions of 4834
higher education. 4835

Each state agency shall submit to the state records 4836
~~administrator~~ program under the director of administrative 4837
services all applications for records disposal or transfer and all 4838
schedules of records retention and destruction. The state records 4839
~~administrator~~ program shall review ~~such~~ the applications and 4840
schedules and provide written approval, rejection, or modification 4841

of ~~the~~ an application or schedule. The state records ~~administrator~~ 4842
program shall then forward the application for records disposal or 4843
transfer or the schedule for retention or destruction, with the 4844
~~administrator's~~ program's recommendation attached, to the auditor 4845
of state for review and approval. The decision of the auditor of 4846
state to approve, reject, or modify the ~~applications~~ application 4847
or ~~schedules~~ schedule shall be based upon the continuing 4848
administrative and fiscal value of the state records to the state 4849
or to its citizens. If the auditor of state disapproves the action 4850
by the state agency, ~~he~~ the auditor of state shall so inform the 4851
state agency through the state records ~~administrator~~ program 4852
within sixty days, and ~~these~~ the records shall not be destroyed. 4853
~~At~~ 4854

At the same time, the state records ~~administrator~~ program 4855
shall forward the application for records disposal or transfer or 4856
the schedule for retention or destruction to the state archivist 4857
for review and approval. The state archivist shall have sixty days 4858
to select for custody ~~such~~ the state records ~~as he~~ that the state 4859
archivist determines to be of continuing historical value. Records 4860
not ~~so~~ selected shall be disposed of in accordance with this 4861
section. 4862

Sec. 149.34. The head of each state agency, office, 4863
institution, board, or commission shall do the following: 4864

(A) Establish, maintain, and direct an active continuing 4865
program for the effective management of the records of the state 4866
agency; 4867

(B) ~~Cooperate with the state records administrator in the~~ 4868
~~conduct of surveys pursuant to section 149.331 of the Revised~~ 4869
~~Code;~~ 4870

(C) Submit to the state records ~~administrator~~ program, in 4871
accordance with applicable standards and procedures, schedules 4872

proposing the length of time each record series warrants retention 4873
for administrative, legal, or fiscal purposes after it has been 4874
received or created by the agency. The head ~~of each state agency~~ 4875
also shall submit to the state records ~~administrator~~ program 4876
applications for disposal of records in ~~his~~ the head's custody 4877
that are not needed in the transaction of current business and are 4878
not otherwise scheduled for retention or destruction. 4879

~~(D) Transfer to a state records center or auxiliary 4880
facilities, in the manner prescribed by the state records 4881
administrator, those records of the agency that can be retained 4882
more efficiently and economically in such a center;~~ 4883

~~(E)~~(C) Within one year after their date of creation or 4884
receipt, schedule all records for disposition or retention in the 4885
manner prescribed by applicable law and procedures. 4886

This section does not apply to state-supported institutions 4887
of higher education. 4888

Sec. 149.35. If any law prohibits the destruction of records, 4889
~~neither the state records administrator nor~~ director of 4890
administrative services, the director's designee, or the boards of 4891
trustees of state-supported institutions of higher education shall 4892
not order their destruction or other disposition, ~~and, if.~~ If any 4893
law provides that records shall be kept for a specified period of 4894
time, ~~neither the administrator nor~~ director of administrative 4895
services, the director's designee, or the boards shall not order 4896
their destruction or other disposition prior to the expiration of 4897
~~such~~ that period. 4898

Sec. 153.65. As used in sections 153.65 to 153.71 of the 4899
Revised Code: 4900

(A) "Public authority" means the state, ~~or~~ a county, 4901
township, municipal corporation, school district, or other 4902

political subdivision, or any public agency, authority, board, 4903
commission, instrumentality, or special district of the state or a 4904
county, township, municipal corporation, school district, or other 4905
political subdivision. 4906

(B) "Professional design firm" means any person legally 4907
engaged in rendering professional design services. 4908

(C) "Professional design services" means services within the 4909
scope of practice of an architect or landscape architect 4910
registered under Chapter 4703. of the Revised Code or a 4911
professional engineer or surveyor registered under Chapter 4733. 4912
of the Revised Code. 4913

(D) "Qualifications" means all of the following: 4914

(1) Competence of the professional design firm to perform the 4915
required professional design services as indicated by the 4916
technical training, education, and experience of the firm's 4917
personnel, especially the technical training, education, and 4918
experience of the employees within the firm who would be assigned 4919
to perform the services; 4920

(2) Ability of the firm in terms of its workload and the 4921
availability of qualified personnel, equipment, and facilities to 4922
perform the required professional design services competently and 4923
expeditiously; 4924

(3) Past performance of the firm as reflected by the 4925
evaluations of previous clients with respect to such factors as 4926
control of costs, quality of work, and meeting of deadlines; 4927

(4) ~~Other similar~~ Any other relevant factors as determined by 4928
the public authority. 4929

Sec. 153.691. No public authority planning to contract for 4930
professional design services, prior to selecting and ranking 4931
professional design firms and negotiating a contract with the firm 4932

ranked most qualified to perform the required services under 4933
section 153.69 of the Revised Code, shall seek any form of fee 4934
estimate, fee proposal, or other estimate or measure of 4935
compensation. 4936

Sec. 164.27. (A) The clean Ohio conservation fund is hereby 4937
created in the state treasury. Seventy-five per cent of the net 4938
proceeds of obligations issued and sold by the issuing authority 4939
pursuant to sections 151.01 and 151.09 of the Revised Code shall 4940
be deposited into the fund. Investment earnings of the fund shall 4941
be credited to the fund. ~~For two years after the effective date of~~ 4942
~~this section, investment earnings credited to the fund and~~ 4943
used to pay costs incurred by the Ohio public works commission in 4944
administering sections 164.20 to 164.27 of the Revised Code. 4945
Moneys in the clean Ohio conservation fund shall be used to make 4946
grants to local political subdivisions and nonprofit organizations 4947
for projects that have been approved for grants under sections 4948
164.20 to 164.27 of the Revised Code. 4949

The clean Ohio conservation fund shall be administered by the 4950
Ohio public works commission. 4951

(B) For the purpose of grants issued under sections 164.20 to 4952
164.27 of the Revised Code, moneys shall be allocated on an annual 4953
basis from the clean Ohio conservation fund to districts 4954
represented by natural resources assistance councils as follows: 4955

(1) Each district shall receive an amount that is equal to 4956
one-fourth of one per cent of the total annual amount allocated to 4957
all districts each year for each county that is represented by the 4958
district. 4959

(2) The remaining moneys shall be allocated to each district 4960
annually on a per capita basis. 4961

(C) A grant that is awarded under sections 164.20 to 164.27 4962

of the Revised Code may provide up to seventy-five per cent of the 4963
estimated cost of a project. Matching funds from a grant recipient 4964
may consist of contributions of money by any person, any local 4965
political subdivision, or the federal government or of 4966
contributions in-kind by such entities through the purchase or 4967
donation of equipment, land, easements, interest in land, labor, 4968
or materials necessary to complete the project. 4969

(D) The director of the Ohio public works commission shall 4970
notify the director of budget and management of the amounts 4971
allocated pursuant to this section, and that information shall be 4972
entered in the state accounting system. The director of budget and 4973
management may establish appropriate line items or other 4974
mechanisms that are needed to track the allocations. 4975

(E) Grants awarded under sections 164.20 to 164.27 of the 4976
Revised Code from the clean Ohio conservation fund shall be used 4977
by a local political subdivision or nonprofit organization only to 4978
pay the costs related to the purposes for which grants may be 4979
issued under section 164.22 of the Revised Code and shall not be 4980
used by a local political subdivision or nonprofit organization to 4981
pay any administrative costs incurred by the local political 4982
subdivision or nonprofit organization. 4983

Sec. 173.08. (A) The resident services coordinator program is 4984
established in the department of aging to fund resident services 4985
coordinators. The coordinators shall provide information to 4986
low-income and special-needs tenants, including the elderly, who 4987
live in subsidized rental housing complexes, and assist those 4988
tenants in identifying and obtaining community and program 4989
services and other benefits for which they are eligible. 4990

(B) The resident services coordinator program fund is hereby 4991
created in the state treasury to support the resident services 4992
coordinator program established pursuant to this section. The fund 4993

consists of all moneys the department of development sets aside 4994
pursuant to division (A)(4) of section 175.21 of the Revised Code 4995
and moneys the general assembly appropriates to the fund. 4996

Sec. 173.26. (A) Each of the following facilities shall 4997
annually pay to the department of aging three dollars for each bed 4998
maintained by the facility for use by a resident during any part 4999
of the previous year: 5000

(1) Nursing homes, residential care facilities, and homes for 5001
the aging as defined in section 3721.01 of the Revised Code; 5002

(2) Facilities authorized to provide extended care services 5003
under Title XVIII of the "Social Security Act," 49 Stat. 620 5004
(1935), 42 U.S.C. 301, as amended; 5005

(3) County homes and district homes operated pursuant to 5006
Chapter 5155. of the Revised Code; 5007

(4) Adult care facilities as defined in section 3722.01 of 5008
the Revised Code; 5009

(5) ~~Adult foster homes certified under section 173.36 of the~~ 5010
~~Revised Code;~~ 5011

~~(6)~~ Facilities approved by the Veterans Administration under 5012
Section 104(a) of the "Veterans Health Care Amendments of 1983," 5013
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 5014
the placement and care of veterans. 5015

The department shall, by rule adopted ~~under section 111.15 in~~ 5016
accordance with Chapter 119. of the Revised Code, establish 5017
deadlines for payments required by this section. 5018

(B) All money collected under this section shall be deposited 5019
in the state treasury to the credit of the office of the state 5020
long-term care ~~ombudsman~~ ombudsperson program fund, which is 5021
hereby created. Money credited to the fund shall be used solely to 5022
pay the costs of operating the regional long-term care ~~ombudsman~~ 5023

ombudsperson programs. 5024

(C) The state long-term care ~~ombudsman~~ ombudsperson and the 5025
regional programs may solicit and receive contributions to support 5026
the operation of the office or a regional program, except that no 5027
contribution shall be solicited or accepted that would interfere 5028
with the independence or objectivity of the office or program. 5029

Sec. 175.03. (A)(1) The Ohio housing finance agency shall 5030
consist of eleven members. Nine of the members shall be appointed 5031
by the governor with the advice and consent of the senate. The 5032
director of commerce and the director of development, or their 5033
respective designees, shall also be voting members of the agency. 5034
Of the nine appointed members, at least one shall have experience 5035
in residential housing construction; at least one shall have 5036
experience in residential housing mortgage lending, loan 5037
servicing, or brokering; at least one shall have experience in the 5038
licensed residential housing brokerage business; at least one 5039
shall have experience with the housing needs of senior citizens; 5040
at least one shall be from a background in labor representation in 5041
the construction industry; at least one shall represent the 5042
interests of nonprofit multifamily housing development 5043
corporations; at least one shall represent the interests of 5044
for-profit multifamily housing development organizations; and two 5045
shall be public members. The governor shall receive 5046
recommendations from the Ohio housing council for appointees to 5047
represent the interests of nonprofit multifamily housing 5048
development corporations and for-profit multifamily housing 5049
development organizations. Each appointee representing multifamily 5050
housing interests currently shall be employed with an organization 5051
that is active in the area of affordable housing development or 5052
management. No more than six of the appointed members of the 5053
agency shall be of the same political party. Of the appointments 5054
made to the agency for the eighth and ninth appointed members in 5055

accordance with this amendment, one shall be for a term ending on 5056
January 31, 2005, and one shall be for a term ending on January 5057
31, 2006. Thereafter, each appointed member shall serve for a term 5058
ending on the thirty-first day of January which is six years 5059
following the date of termination of the term which it succeeds. 5060
Each member shall hold office from the date of the member's 5061
appointment until the end of the term for which the member was 5062
appointed. Any member appointed to fill a vacancy occurring prior 5063
to the expiration of the term for which the member's predecessor 5064
was appointed shall hold office for the remainder of such term. 5065
Any appointed member shall continue in office subsequent to the 5066
expiration date of the member's term until the member's successor 5067
takes office, or until a period of sixty days has elapsed, 5068
whichever occurs first. Each appointed member may be removed from 5069
office by the governor for misfeasance, nonfeasance, malfeasance 5070
in office, or for failure to attend in person three consecutive 5071
meetings of the agency. 5072

(2) The ~~director of development or the director's designee~~ 5073
governor shall ~~be~~ appoint the chairperson of the agency. The 5074
agency shall elect one of its ~~appointed~~ members as 5075
vice-chairperson and such other officers as it deems necessary, 5076
who need not be members of the agency. Each appointed member of 5077
the agency shall receive compensation at the rate of one hundred 5078
fifty dollars per agency meeting attended in person, not to exceed 5079
a maximum of three thousand dollars per year. All members shall be 5080
reimbursed for their actual and necessary expenses incurred in the 5081
discharge of their official duties. 5082

(3) Six members of the agency constitute a quorum, and the 5083
affirmative vote of six members shall be necessary for any action 5084
taken by the agency. No vacancy in membership of the agency 5085
impairs the right of a quorum to exercise all the rights and 5086
perform all the duties of the agency. Meetings of the agency may 5087

be held at any place within the state. Meetings of the agency, 5088
including notice of the place of meetings, shall comply with 5089
section 121.22 of the Revised Code. 5090

(B)(1) The appointed members of the agency are not subject to 5091
section 102.02 of the Revised Code. Each such appointed member 5092
shall file with the agency a signed written statement setting 5093
forth the general nature of sales of goods, property or services 5094
or of loans to the agency in which such member has a pecuniary 5095
interest or in which any member of the member's immediate family, 5096
as defined in section 102.01 of the Revised Code, or any 5097
corporation, partnership or enterprise of which the member is an 5098
officer, director, or partner, or of which the member or a member 5099
of the member's immediate family, as so defined, owns more than a 5100
five per cent interest, has a pecuniary interest, and of which 5101
sale, loan and interest such member has knowledge. The statement 5102
shall be supplemented from time to time to reflect changes in the 5103
general nature of any such sales or loans. No member shall 5104
participate in portions of agency meetings dealing with, or vote 5105
concerning, any such matter. 5106

(2) The requirements of this section pertaining to disclosure 5107
and prohibition from participation and voting do not apply to 5108
agency loans to lending institutions or contracts between the 5109
agency and lending institutions for the purchase, administration, 5110
or servicing of loans notwithstanding that such lending 5111
institution has a director, officer, employee, or owner who is a 5112
member of the agency, and no such loans or contracts shall be 5113
deemed to be prohibited or otherwise regulated by reason of any 5114
other law or rule. 5115

(3) The members of the agency representing multifamily 5116
housing interests are not in violation of division (A) of section 5117
2921.42, division (D) of section 102.03, or division (E) of 5118
section 102.03 of the Revised Code in regard to a contract the 5119

agency enters into if both of the following apply: 5120

(a) The contract is entered into for a loan, grant, or 5121
participation in a program administered or funded by the agency 5122
and the contract was awarded pursuant to rules or guidelines the 5123
agency adopted. 5124

(b) The member does not participate in the discussion or vote 5125
on the contract if the contract secured a grant or loan that would 5126
directly benefit the member, a family member, or a business 5127
associate of the member. 5128

Sec. 175.21. (A) The low- and moderate-income housing trust 5129
fund is hereby created in the state treasury. The fund shall 5130
consist of all appropriations, grants, gifts, loan repayments, and 5131
contributions of money made from any source to the department of 5132
development for deposit in the fund. All investment earnings of 5133
the fund shall be credited to the fund. The director of 5134
development shall allocate a portion of the money in the fund to 5135
an account of the Ohio housing finance agency. The department 5136
shall administer the fund. The agency shall use money allocated to 5137
it in the fund for implementing and administering its programs and 5138
duties under sections 175.22 and 175.24 of the Revised Code, and 5139
the department shall use the remaining money in the fund for 5140
implementing and administering its programs and duties under 5141
sections 175.22 to 175.25 of the Revised Code. Use of all money in 5142
the fund is subject to the following restrictions: 5143

(1) Not more than six per cent of any current year 5144
appropriation authority for the fund shall be used for the 5145
transitional and permanent housing program to make grants to 5146
municipal corporations, counties, townships, and nonprofit 5147
organizations for the acquisition, rehabilitation, renovation, 5148
construction, conversion, operation, and cost of supportive 5149
services for new and existing transitional and permanent housing 5150

for homeless persons. 5151

(2)(a) Not more than five per cent of any current year 5152
appropriation authority for the fund shall be used for grants and 5153
loans to community development corporations and the Ohio community 5154
development finance fund, a private nonprofit corporation. 5155

(b) In any year in which the amount in the fund exceeds one 5156
hundred thousand dollars, not less than one hundred thousand 5157
dollars shall be used to provide training, technical assistance, 5158
and capacity building assistance to nonprofit development 5159
organizations in areas of the state the director designates as 5160
underserved. 5161

(c) For monies awarded in any fiscal year, priority shall be 5162
given to proposals submitted by nonprofit development 5163
organizations from areas of the state the director designates as 5164
underserved. 5165

(3) Not more than seven per cent of any current year 5166
appropriation authority for the fund shall be used for the 5167
emergency shelter housing grants program to make grants to 5168
private, nonprofit organizations and municipal corporations, 5169
counties, and townships for emergency shelter housing for the 5170
homeless. The grants shall be distributed pursuant to rules the 5171
director adopts and qualify as matching funds for funds obtained 5172
pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 5173
11371 to 11378. 5174

(4) In any fiscal year in which the amount in the fund 5175
exceeds the amount awarded pursuant to division (A)(2)(b) of this 5176
section by at least two hundred fifty thousand dollars, at least 5177
two hundred fifty thousand dollars from the fund shall be provided 5178
to the department of aging for the resident services coordinator 5179
program. 5180

(5) Of all money in the fund: 5181

(a) Not more than six per cent shall be used for 5182
administration. 5183

(b) Not less than forty-five per cent of the ~~amount of~~ funds 5184
awarded during any one fiscal year shall be ~~used to make for~~ 5185
grants and loans to nonprofit organizations under section 175.22 5186
of the Revised Code, ~~not.~~ 5187

(c) Not less than fifty per cent of the ~~amount of~~ funds 5188
awarded during any one fiscal year, excluding the amounts awarded 5189
pursuant to divisions (A)(1), (A)(2), and (A)(3) of this section, 5190
shall be ~~used to make for~~ grants and loans for activities that 5191
~~will~~ provide housing and housing assistance to families and 5192
individuals in rural areas and small cities that ~~would~~ are not be 5193
eligible to participate as a participating jurisdiction under the 5194
"HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 5195
U.S.C. 12701 note, 12721, ~~no more than five per cent of the money~~ 5196
~~in the fund shall be used for administration, and no.~~ 5197

(d) No money in the fund shall be used to pay for any legal 5198
services other than the usual and customary legal services 5199
associated with the acquisition of housing. 5200

(6) Except as otherwise provided by the director under 5201
division (B) of this section, money in the fund may be used as 5202
matching money for federal funds received by the state, counties, 5203
municipal corporations, and townships for the activities listed in 5204
section 175.22 of the Revised Code. 5205

(B) If after the second quarter of any year it appears to the 5206
director that the full amount of the money in the ~~low and~~ 5207
~~moderate-income housing trust~~ fund designated in that year for 5208
activities that ~~will~~ provide housing and housing assistance to 5209
families and individuals in rural areas and small cities under 5210
division (A) of this section will not be ~~so~~ used for that purpose, 5211
the director may reallocate all or a portion of that amount for 5212

other housing activities. In determining whether or how to 5213
reallocate money under this division, the director may consult 5214
with and shall receive advice from the housing trust fund advisory 5215
committee. 5216

Sec. 175.22. (A) The department of development and the Ohio 5217
housing finance agency shall each develop programs under which, in 5218
accordance with rules adopted under this section, ~~it~~ they may make 5219
grants, loans, loan guarantees, and loan subsidies to counties, 5220
municipal corporations, townships, local housing authorities, and 5221
nonprofit organizations and may make loans, loan guarantees, and 5222
loan subsidies to private developers and private lenders to assist 5223
~~them~~ in activities that ~~will~~ provide housing and housing 5224
assistance for specifically targeted low- and moderate-income 5225
families and individuals. There ~~shall be~~ is no minimum housing 5226
project size for awards under this division for any project that 5227
is ~~being~~ developed for a special needs population and that is 5228
supported by a social service agency where the housing project 5229
~~will be~~ is located. Activities for which grants, loans, loan 5230
guarantees, and loan subsidies may be made under this section 5231
include all of the following: 5232

(1) Acquiring, financing, constructing, leasing, 5233
rehabilitating, remodeling, improving, and equipping publicly or 5234
privately owned housing; 5235

(2) Providing supportive services related to housing and the 5236
homeless, including housing counseling. Not more than twenty per 5237
cent of the current year appropriation authority for the low- and 5238
moderate-income housing trust fund that remains after the 5239
expenditures made pursuant to divisions (A)(1), (A)(2), and (A)(3) 5240
of section 175.21 of the Revised Code, shall be awarded in any 5241
fiscal year for ~~such~~ supportive services. 5242

(3) Providing rental assistance payments or other project 5243

operating subsidies that lower tenant rents. 5244

(B) Grants, loans, loan guarantees, and loan subsidies may be 5245
made to counties, municipal corporations, townships, and nonprofit 5246
organizations for the additional purposes of providing technical 5247
assistance, design and finance services and consultation, and 5248
payment of pre-development and administrative costs related to any 5249
of the activities listed above. 5250

(C) In developing programs under this section, the department 5251
and the agency shall invite, accept, and consider public comment, 5252
and recommendations from the housing trust fund advisory committee 5253
created under section 175.25 of the Revised Code, on how the 5254
programs should be designed to most effectively benefit low- and 5255
moderate-income families and individuals. The programs developed 5256
under this section shall respond collectively to housing and 5257
housing assistance needs of low- and moderate-income families and 5258
individuals statewide. 5259

(D) The department and the agency, in accordance with Chapter 5260
119. of the Revised Code, shall each adopt rules ~~under which it~~ 5261
~~shall to~~ administer programs developed ~~by it~~ under this section. 5262
The rules shall prescribe procedures and forms ~~whereby that~~ 5263
counties, municipal corporations, townships, local housing 5264
authorities, and nonprofit organizations ~~may apply~~ shall use in 5265
applying for grants, loans, loan guarantees, and loan subsidies 5266
and that private developers and private lenders ~~may apply~~ shall 5267
use in applying for loans, loan guarantees, and loan subsidies; 5268
eligibility criteria for the receipt of funds; procedures for 5269
reviewing and granting or denying applications; procedures for 5270
paying out funds; conditions on the use of funds; procedures for 5271
monitoring the use of funds; and procedures under which a 5272
recipient shall be required to repay funds that are improperly 5273
used. The rules ~~adopted by the department~~ shall do both of the 5274
following: 5275

(1) Require each recipient of a grant or loan made from the 5276
low- and moderate-income housing trust fund for activities that 5277
~~will~~ provide, or assist in providing, a rental housing project, to 5278
reasonably ensure that the rental housing project will ~~be~~ remain 5279
affordable to those families and individuals targeted for the 5280
rental housing project for the useful life of the rental housing 5281
project or for thirty years, whichever is longer; 5282

(2) Require each recipient of a grant or loan made from the 5283
low- and moderate-income housing trust fund for activities that 5284
~~will~~ provide, or assist in providing, a housing project to prepare 5285
and implement a plan to reasonably assist any families and 5286
individuals displaced by the housing project in obtaining decent 5287
affordable housing. 5288

(E) In prescribing eligibility criteria and conditions for 5289
the use of funds, neither the department nor the agency is limited 5290
to the criteria and conditions specified in this section and each 5291
may prescribe additional eligibility criteria and conditions that 5292
relate to the purposes for which grants, loans, loan guarantees, 5293
and loan subsidies may be made. However, the department and agency 5294
are limited by the following specifically targeted low- and 5295
moderate-income guidelines: 5296

(1) Not less than seventy-five per cent of the money granted 5297
and loaned under this section in any fiscal year shall be for 5298
activities that ~~will~~ provide affordable housing and housing 5299
assistance to families and individuals ~~in a county~~ whose incomes 5300
are equal to or less than fifty per cent of the median income for 5301
~~that~~ the county in which they live, as determined by the 5302
department under section 175.23 of the Revised Code. 5303

(2) ~~The remainder of the~~ Any money granted and loaned under 5304
this section in any fiscal year that is not granted or loaned 5305
pursuant to division (E)(1) of this section shall be for 5306

activities that ~~will~~ provide affordable housing and housing 5307
assistance to families and individuals ~~in a county~~ whose incomes 5308
are equal to or less than eighty per cent of the median income for 5309
~~that~~ the county in which they live, as determined by the 5310
department under section 175.23 of the Revised Code. 5311

(F) In making grants, loans, loan guarantees, and loan 5312
subsidies under this section, the department and the agency shall 5313
give preference to viable projects and activities that ~~will~~ 5314
benefit those families and individuals ~~in a county~~ whose incomes 5315
are equal to or less than thirty-five per cent of the median 5316
income for ~~that~~ the county in which they live, as determined by 5317
the department under section 175.23 of the Revised Code. 5318

(G) The department and the agency shall monitor the programs 5319
developed under this section to ensure that money granted and 5320
loaned under this section is not used in a manner that violates 5321
division (H) of section 4112.02 of the Revised Code or 5322
discriminates against families with children. 5323

Sec. 183.02. This section's references to years mean state 5324
fiscal years. 5325

All payments received by the state pursuant to the tobacco 5326
master settlement agreement shall be deposited into the state 5327
treasury to the credit of the tobacco master settlement agreement 5328
fund, which is hereby created. All investment earnings of the fund 5329
shall also be credited to the fund. Except as provided in division 5330
(K) of this section, payments and interest credited to the fund 5331
shall be transferred by the director of budget and management as 5332
follows: 5333

(A)(1) Of the first payment credited to the tobacco master 5334
settlement agreement fund in 2000 and the net amounts credited to 5335
the fund annually from 2000 to 2006 and in 2012, the following 5336
amount or percentage shall be transferred to the tobacco use 5337

prevention and cessation trust fund, created in section 183.03 of 5338
the Revised Code: 5339

YEAR	AMOUNT OR PERCENTAGE	5340
2000 (first payment 5341 credited)	\$104,855,222.85	
2000 (net amount credited)	70.30%	5342
2001	62.84	5343
2002	61.41	5344
2003	63.24	5345
2004	66.65	5346
2005	66.24	5347
2006	65.97	5348
2012	56.01	5349

(2) Of the net amounts credited to the tobacco master 5350
settlement agreement fund in 2013, the director shall transfer to 5351
the tobacco use prevention and cessation trust fund the amount not 5352
transferred to the tobacco use prevention and cessation trust fund 5353
from the net amounts credited to the tobacco master settlement 5354
agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. 5355
S.B. No. 242 of the 124th general assembly. Of the net amounts 5356
credited to the tobacco master settlement agreement fund in 2014, 5357
the director shall transfer to the tobacco use prevention and 5358
cessation trust fund the amount not transferred to the tobacco use 5359
prevention and cessation trust fund from the net amounts credited 5360
to the tobacco master settlement agreement fund in 2003 due to Am. 5361
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 5362
assembly. Of the net amounts credited to the tobacco master 5363
settlement agreement fund in 2015, the director shall transfer to 5364
the tobacco use prevention and cessation trust fund the amount not 5365
transferred to the tobacco use prevention and cessation trust fund 5366
from the net amounts credited to the tobacco master settlement 5367
agreement fund in 2004 due to H.B. of the 125th general 5368
assembly. 5369

(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:

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment credited)	\$10,000,000	5377
2000 (net amount credited)	5.41%	5378
2001	2.32	5379

~~(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:

YEAR	PERCENTAGE	
2000 (first payment credited)	5.00%	5387
2000 (net amount credited)	8.73	5388
2001	8.12	5389
2002	9.18	5390
2003	8.91	5391
2004	7.84	5392
2005	7.79	5393
2006	7.76	5394
2007	17.39	5395
2008 through 2011	17.25	5396

~~(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 5400
and community development trust fund from the net amounts credited 5401
to the tobacco master settlement agreement fund in 2002 due to Am. 5402
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 5403
assembly. Of the net amounts credited to the tobacco master 5404
settlement agreement fund in 2014, the director shall transfer to 5405
the southern Ohio agricultural and community development trust 5406
fund the amount not transferred to the southern Ohio agricultural 5407
and community development trust fund from the net amounts credited 5408
to the tobacco master settlement agreement fund in 2003 due to Am. 5409
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 5410
assembly. 5411~~

(D)(1) The following percentages of the net amounts credited 5412
to the tobacco master settlement agreement fund annually shall be 5413
transferred to Ohio's public health priorities trust fund, created 5414
in section 183.18 of the Revised Code: 5415

YEAR	PERCENTAGE	
2000	5.41	5417
2001	6.68	5418
2002	6.79	5419
2003	6.90	5420
2004	7.82	5421
2005	8.18	5422
2006	8.56	5423
2007	19.83	5424
2008	19.66	5425
2009	20.48	5426
2010	21.30	5427
2011	22.12	5428
2012	10.47	5429

~~(2) Of the net amounts credited to the tobacco master 5430
settlement agreement fund in 2013, the director shall transfer to 5431~~

~~Ohio's public health priorities trust fund the amount not 5432
transferred to Ohio's public health priorities trust fund from the 5433
net amounts credited to the tobacco master settlement agreement 5434
fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 5435
242 of the 124th general assembly. Of the net amounts credited to 5436
the tobacco master settlement agreement fund in 2014, the director 5437
shall transfer to Ohio's public health priorities trust fund the 5438
amount not transferred to Ohio's public health priorities trust 5439
fund from the net amounts credited to the tobacco master 5440
settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and 5441
Am. Sub. S.B. No. 242 of the 124th general assembly. 5442~~

(E) The following percentages of the net amounts credited to 5443
the tobacco master settlement agreement fund annually shall be 5444
transferred to the biomedical research and technology transfer 5445
trust fund, created in section 183.19 of the Revised Code: 5446

YEAR	PERCENTAGE	5447
2000	2.71	5448
2001	14.03	5449
2002	13.29	5450
2003	12.73	5451
2004	13.78	5452
2005	14.31	5453
2006	14.66	5454
2007	49.57	5455
2008 to 2011	45.06	5456
2012	18.77	5457

(F) Of the amounts credited to the tobacco master settlement 5458
agreement fund annually, the following amounts shall be 5459
transferred to the education facilities trust fund, created in 5460
section 183.26 of the Revised Code: 5461

YEAR	AMOUNT	5462
2000	\$133,062,504.95	5463

2001	128,938,732.73	5464
2002	185,804,475.78	5465
2003	180,561,673.11	5466
2004	122,778,219.49	5467
2005	121,389,325.80	5468
2006	120,463,396.67	5469
2007	246,389,369.01	5470
2008 to 2011	267,531,291.85	5471
2012	110,954,545.28	5472

(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	5481
2014	33.36	5482
2015 to 2025	40.90	5483

(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	5489
2001	6.01	5490
2002	9.33	5491
2003	8.22	5492
2004	3.91	5493
2005	3.48	5494
2006	3.05	5495

2007	13.21	5496
2008	18.03	5497
2009	17.21	5498
2010	16.39	5499
2011	15.57	5500
2012	14.75	5501

(I) In each year from 2003 to 2025, after the transfers made 5502
under divisions (F) and (G) of this section but prior to the 5503
transfers made under divisions (A) to (E) of this section, the 5504
director of budget and management shall transfer to the tobacco 5505
settlement oversight, administration, and enforcement fund created 5506
in section 183.34 of the Revised Code such amount as the director 5507
determines necessary to pay the costs incurred by the attorney 5508
general in tobacco settlement oversight, administration, and 5509
enforcement. 5510

(J) In each year from 2003 to 2025, after the transfers made 5511
under divisions (F) and (G) of this section but prior to the 5512
transfers made under divisions (A) to (E) of this section, the 5513
director of budget and management shall transfer to the tobacco 5514
settlement enforcement fund created in section 183.35 of the 5515
Revised Code such amount as the director determines necessary to 5516
pay the costs incurred by the tax commissioner in the enforcement 5517
of divisions (F) and (G) of section 5743.03 of the Revised Code. 5518

(K) If in any year from 2001 to 2012 the payments and 5519
interest credited to the tobacco master settlement agreement fund 5520
during the year amount to less than the amounts required to be 5521
transferred to the education facilities trust fund and the 5522
education facilities endowment fund that year, the director of 5523
budget and management shall make none of the transfers required by 5524
divisions (A) to (J) of this section. 5525

(L) If in any year from 2000 to 2025 the payments credited to 5526
the tobacco master settlement agreement fund during the year 5527

exceed the following amounts, the director of budget and 5528
management shall transfer the excess to the income tax reduction 5529
fund, created in section 131.44 of the Revised Code: 5530

YEAR	AMOUNT	
2000	\$443,892,767.51	5532
2001	348,780,049.22	5533
2002	418,783,038.09	5534
2003	422,746,368.61	5535
2004	352,827,184.57	5536
2005	352,827,184.57	5537
2006	352,827,184.57	5538
2007	352,827,184.57	5539
2008 to 2017	383,779,323.15	5540
2018 to 2025	403,202,282.16	5541

Sec. 307.86. Anything to be purchased, leased, leased with an 5542
option or agreement to purchase, or constructed, including, but 5543
not limited to, any product, structure, construction, 5544
reconstruction, improvement, maintenance, repair, or service, 5545
except the services of an accountant, architect, attorney at law, 5546
physician, professional engineer, construction project manager, 5547
consultant, surveyor, or appraiser, by or on behalf of the county 5548
or contracting authority, as defined in section 307.92 of the 5549
Revised Code, at a cost in excess of ~~fifteen~~ twenty-five thousand 5550
dollars, except as otherwise provided in division (D) of section 5551
713.23 and in sections 125.04, 307.022, 307.041, 307.861, 339.05, 5552
340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5553
5713.01, and 6137.05 of the Revised Code, shall be obtained 5554
through competitive bidding. However, competitive bidding is not 5555
required when any of the following applies: 5556

(A) The board of county commissioners, by a unanimous vote of 5557
its members, makes a determination that a real and present 5558
emergency exists, and that determination and the reasons for it 5559

are entered in the minutes of the proceedings of the board, when 5560
either of the following applies: 5561

(1) The estimated cost is less than fifty thousand dollars. 5562

(2) There is actual physical disaster to structures, radio 5563
communications equipment, or computers. 5564

For purposes of this division, "unanimous vote" means all 5565
three members of a board of county commissioners when all three 5566
members are present, or two members of the board if only two 5567
members, constituting a quorum, are present. 5568

Whenever a contract of purchase, lease, or construction is 5569
exempted from competitive bidding under division (A)(1) of this 5570
section because the estimated cost is less than fifty thousand 5571
dollars, but the estimated cost is ~~fifteen~~ twenty-five thousand 5572
dollars or more, the county or contracting authority shall solicit 5573
informal estimates from no fewer than three persons who could 5574
perform the contract, before awarding the contract. With regard to 5575
each such contract, the county or contracting authority shall 5576
maintain a record of such estimates, including the name of each 5577
person from whom an estimate is solicited. The county or 5578
contracting authority shall maintain the record for the longer of 5579
at least one year after the contract is awarded or the amount of 5580
time the federal government requires. 5581

(B)(1) The purchase consists of supplies or a replacement or 5582
supplemental part or parts for a product or equipment owned or 5583
leased by the county, and the only source of supply for the 5584
supplies, part, or parts is limited to a single supplier. 5585

(2) The purchase consists of services related to information 5586
technology, such as programming services, that are proprietary or 5587
limited to a single source. 5588

(C) The purchase is from the federal government, the state, 5589
another county or contracting authority of another county, or a 5590

board of education, township, or municipal corporation. 5591

(D) Public family services or workforce development 5592
activities are purchased for provision by the county department of 5593
job and family services under section 329.04 of the Revised Code, 5594
or program services, such as direct and ancillary client services, 5595
child day-care, case management services, residential services, 5596
and family resource services, are purchased for provision by a 5597
county board of mental retardation and developmental disabilities 5598
under section 5126.05 of the Revised Code. 5599

(E) The purchase consists of criminal justice services, 5600
social services programs, family services, or workforce 5601
development activities by the board of county commissioners from 5602
nonprofit corporations or associations under programs funded by 5603
the federal government or by state grants. 5604

(F) The purchase consists of any form of an insurance policy 5605
or contract authorized to be issued under Title XXXIX of the 5606
Revised Code or any form of health care plan authorized to be 5607
issued under Chapter 1751. of the Revised Code, or any combination 5608
of such policies, contracts, or plans that the contracting 5609
authority is authorized to purchase, and the contracting authority 5610
does all of the following: 5611

(1) Determines that compliance with the requirements of this 5612
section would increase, rather than decrease, the cost of the 5613
purchase; 5614

(2) Employs a competent consultant to assist the contracting 5615
authority in procuring appropriate coverages at the best and 5616
lowest prices; 5617

(3) Requests issuers of the policies, contracts, or plans to 5618
submit proposals to the contracting authority, in a form 5619
prescribed by the contracting authority, setting forth the 5620
coverage and cost of the policies, contracts, or plans as the 5621

contracting authority desires to purchase;	5622
(4) Negotiates with the issuers for the purpose of purchasing	5623
the policies, contracts, or plans at the best and lowest price	5624
reasonably possible.	5625
(G) The purchase consists of computer hardware, software, or	5626
consulting services that are necessary to implement a computerized	5627
case management automation project administered by the Ohio	5628
prosecuting attorneys association and funded by a grant from the	5629
federal government.	5630
(H) Child day-care services are purchased for provision to	5631
county employees.	5632
(I)(1) Property, including land, buildings, and other real	5633
property, is leased for offices, storage, parking, or other	5634
purposes, and all of the following apply:	5635
(a) The contracting authority is authorized by the Revised	5636
Code to lease the property.	5637
(b) The contracting authority develops requests for proposals	5638
for leasing the property, specifying the criteria that will be	5639
considered prior to leasing the property, including the desired	5640
size and geographic location of the property.	5641
(c) The contracting authority receives responses from	5642
prospective lessors with property meeting the criteria specified	5643
in the requests for proposals by giving notice in a manner	5644
substantially similar to the procedures established for giving	5645
notice under section 307.87 of the Revised Code.	5646
(d) The contracting authority negotiates with the prospective	5647
lessors to obtain a lease at the best and lowest price reasonably	5648
possible considering the fair market value of the property and any	5649
relocation and operational costs that may be incurred during the	5650
period the lease is in effect.	5651

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

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

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

Any issuer of policies, contracts, or plans listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under 5684
division (F) of this section shall request proposals and 5685
renegotiate with issuers in accordance with that division at least 5686
every three years from the date of the signing of such a contract. 5687

Any consultant employed pursuant to division (F) of this 5688
section and any real estate appraiser employed pursuant to 5689
division (I) of this section shall disclose any fees or 5690
compensation received from any source in connection with that 5691
employment. 5692

Sec. 307.87. Where competitive bidding is required by section 5693
307.86 of the Revised Code, notice thereof shall be given in the 5694
following manner: 5695

(A) Notice shall be published once a week for not less than 5696
two consecutive weeks preceding the day of the opening of bids in 5697
a newspaper of general circulation within the county for any 5698
purchase, lease, lease with option or agreement to purchase, or 5699
construction contract in excess of ~~ten~~ twenty-five thousand 5700
dollars. The contracting authority may also cause notice to be 5701
inserted in trade papers or other publications designated by it or 5702
to be distributed by electronic means, including posting the 5703
notice on the contracting authority's internet site on the world 5704
wide web. If the contracting authority posts the notice on that 5705
location on the world wide web, it may eliminate the second notice 5706
otherwise required to be published in a newspaper of general 5707
circulation within the county, provided that the first notice 5708
published in such a newspaper meets all of the following 5709
requirements: 5710

(1) It is published at least two weeks before the opening of 5711
bids. 5712

(2) It includes a statement that the notice is posted on the 5713

contracting authority's internet site on the world wide web. 5714

(3) It includes the internet address of the contracting authority's internet site on the world wide web. 5715
5716

(4) It includes instructions describing how the notice may be accessed on the contracting authority's internet site on the world wide web. 5717
5718
5719

(B) Notices shall state all of the following: 5720

(1) A general description of the subject of the proposed contract and the time and place where the plans and specifications or itemized list of supplies, facilities, or equipment and estimated quantities can be obtained or examined; 5721
5722
5723
5724

(2) The time and place where bids will be opened; 5725

(3) The time and place for filing bids; 5726

(4) The terms of the proposed purchase; 5727

(5) Conditions under which bids will be received; 5728

(6) The existence of a system of preference, if any, for products mined and produced in Ohio and the United States adopted pursuant to section 307.90 of the Revised Code. 5729
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~~(B)~~(C) The contracting authority shall also maintain in a public place in its office or other suitable public place a bulletin board upon which it shall post and maintain a copy of such notice for at least two weeks preceding the day of the opening of the bids. 5732
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Sec. 307.93. (A) The boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the 5737
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joint establishment of a municipal-county or multicounty-municipal 5743
correctional center. The center shall augment county and, where 5744
applicable, municipal jail programs and facilities by providing 5745
custody and rehabilitative programs for those persons under the 5746
charge of the sheriff of any of the contracting counties or of the 5747
officer or officers of the contracting municipal corporation or 5748
municipal corporations having charge of persons incarcerated in 5749
the municipal jail, workhouse, or other correctional facility who, 5750
in the opinion of the sentencing court, need programs of custody 5751
and rehabilitation not available at the county or municipal jail 5752
and by providing custody and rehabilitative programs in accordance 5753
with division (C) of this section, if applicable. The contract may 5754
include, but need not be limited to, provisions regarding the 5755
acquisition, construction, maintenance, repair, termination of 5756
operations, and administration of the center. The contract shall 5757
prescribe the manner of funding of, and debt assumption for, the 5758
center and the standards and procedures to be followed in the 5759
operation of the center. Except as provided in division (H) of 5760
this section, the contracting counties and municipal corporations 5761
shall form a corrections commission to oversee the administration 5762
of the center. Members of the commission shall consist of the 5763
sheriff of each participating county, the president of the board 5764
of county commissioners of each participating county, the 5765
presiding judge of the court of common pleas of each participating 5766
county, or, if the court of common pleas of a participating county 5767
has only one judge, then that judge, the chief of police of each 5768
participating municipal corporation, the mayor or city manager of 5769
each participating municipal corporation, and the presiding judge 5770
or the sole judge of the municipal court of each participating 5771
municipal corporation. Any of the foregoing officers may appoint a 5772
designee to serve in the officer's place on the corrections 5773
commission. The standards and procedures shall be formulated and 5774
agreed to by the commission and may be amended at any time during 5775

the life of the contract by agreement of the parties to the 5776
contract upon the advice of the commission. The standards and 5777
procedures formulated by the commission shall include, but need 5778
not be limited to, designation of the person in charge of the 5779
center, the categories of employees to be employed at the center, 5780
the appointing authority of the center, and the standards of 5781
treatment and security to be maintained at the center. The person 5782
in charge of, and all persons employed to work at, the center 5783
shall have all the powers of police officers that are necessary 5784
for the proper performance of the duties relating to their 5785
positions at the center. 5786

(B) Each board of county commissioners that enters a contract 5787
under division (A) of this section may appoint a building 5788
commission pursuant to section 153.21 of the Revised Code. If any 5789
commissions are appointed, they shall function jointly in the 5790
construction of a multicounty or multicounty-municipal 5791
correctional center with all the powers and duties authorized by 5792
law. 5793

(C) Prior to the acceptance for custody and rehabilitation 5794
into a center established under this section of any persons who 5795
are designated by the department of rehabilitation and correction, 5796
who plead guilty to or are convicted of a felony of the fourth or 5797
fifth degree, and who satisfy the other requirements listed in 5798
section 5120.161 of the Revised Code, the corrections commission 5799
of a center established under this section shall enter into an 5800
agreement with the department of rehabilitation and correction 5801
under section 5120.161 of the Revised Code for the custody and 5802
rehabilitation in the center of persons who are designated by the 5803
department, who plead guilty to or are convicted of a felony of 5804
the fourth or fifth degree, and who satisfy the other requirements 5805
listed in that section, in exchange for a per diem fee per person. 5806
Persons incarcerated in the center pursuant to an agreement 5807

entered into under this division shall be subject to supervision 5808
and control in the manner described in section 5120.161 of the 5809
Revised Code. This division does not affect the authority of a 5810
court to directly sentence a person who is convicted of or pleads 5811
guilty to a felony to the center in accordance with section 5812
2929.16 of the Revised Code. 5813

(D) Pursuant to section 2929.37 of the Revised Code, each 5814
board of county commissioners and the legislative authority of 5815
each municipal corporation that enters into a contract under 5816
division (A) of this section may require a person who was 5817
convicted of an offense, who is under the charge of the sheriff of 5818
their county or of the officer or officers of the contracting 5819
municipal corporation or municipal corporations having charge of 5820
persons incarcerated in the municipal jail, workhouse, or other 5821
correctional facility, and who is confined in the multicounty, 5822
municipal-county, or multicounty-municipal correctional center as 5823
provided in that division, to reimburse the applicable county or 5824
municipal corporation for its expenses incurred by reason of the 5825
person's confinement in the center. 5826

(E) Notwithstanding any contrary provision in this section or 5827
section 2929.18, 2929.21, 2929.36, or 2929.37 of the Revised Code, 5828
the corrections commission of a center may establish a policy that 5829
complies with section 2929.38 of the Revised Code and that 5830
requires any person who is not indigent and who is confined in the 5831
multicounty, municipal-county, or multicounty-municipal 5832
correctional center to pay a reception fee, a fee for medical 5833
treatment or service requested by and provided to that person, or 5834
the fee for a random drug test assessed under division (E) of 5835
section 341.26 of the Revised Code. 5836

(F)(1) The corrections commission of a center established 5837
under this section may establish a commissary for the center. The 5838
commissary may be established either in-house or by another 5839

arrangement. If a commissary is established, all persons 5840
incarcerated in the center shall receive commissary privileges. A 5841
person's purchases from the commissary shall be deducted from the 5842
person's account record in the center's business office. The 5843
commissary shall provide for the distribution to indigent persons 5844
incarcerated in the center of necessary hygiene articles and 5845
writing materials. 5846

(2) If a commissary is established, the corrections 5847
commission of a center established under this section shall 5848
establish a commissary fund for the center. The management of 5849
funds in the commissary fund shall be strictly controlled in 5850
accordance with procedures adopted by the auditor of state. 5851
Commissary fund revenue over and above operating costs and reserve 5852
shall be considered profits. All profits from the commissary fund 5853
shall be used to purchase supplies and equipment for the benefit 5854
of persons incarcerated in the center and to pay salary and 5855
benefits for employees of the center, or for any other persons, 5856
who work in or are employed for the sole purpose of providing 5857
service to the commissary. The corrections commission shall adopt 5858
rules and regulations for the operation of any commissary fund it 5859
establishes. 5860

(G) In lieu of forming a corrections commission to administer 5861
a multicounty correctional center or a municipal-county or 5862
multicounty-municipal correctional center, the boards of county 5863
commissioners and the legislative authorities of the municipal 5864
corporations contracting to establish the center may also agree to 5865
contract for the private operation and management of the center as 5866
provided in section 9.06 of the Revised Code, but only if the 5867
center houses only misdemeanor inmates. In order to enter into a 5868
contract under section 9.06 of the Revised Code, all the boards 5869
and legislative authorities establishing the center shall approve 5870
and be parties to the contract. 5871

(H) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center or is incarcerated in the center in the manner described in division (C) of this section, or if a person who is arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center pending trial, at the time of reception and at other times the officer, officers, or other person in charge of the operation of the center determines to be appropriate, the officer, officers, or other person in charge of the operation of the center may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The officer, officers, or other person in charge of the operation of the center may cause a convicted or accused offender in the center who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(I) As used in this section, "multicounty-municipal" means more than one county and a municipal corporation, or more than one municipal corporation and a county, or more than one municipal corporation and more than one county.

Sec. 311.17. For the services specified in this section, the sheriff shall charge the following fees, which the court or its clerk ~~thereof~~ shall tax in the bill of costs against the judgment debtor or those legally liable therefor for the judgment:

(A) For the service and return of the following writs and orders:

(1) Execution:	5903
(a) When money is paid without levy or when no property is found, five <u>twenty</u> dollars;	5904 5905
(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;	5906 5907 5908
(c) When levy is made on goods and chattels, including inventory, twenty-five <u>fifty</u> dollars+.	5909 5910
(2) Writ of attachment of property, except for purpose of garnishment, twenty <u>forty</u> dollars;	5911 5912
(3) Writ of attachment for the purpose of garnishment, five <u>ten</u> dollars;	5913 5914
(4) Writ of replevin, twenty <u>forty</u> dollars;	5915
(5) Warrant to arrest, for each person named in the writ, five <u>ten</u> dollars;	5916 5917
(6) Attachment for contempt, for each person named in the writ, three <u>six</u> dollars;	5918 5919
(7) Writ of possession or restitution, twenty <u>sixty</u> dollars;	5920
(8) Subpoena, for each person named in the writ, if in either a civil or criminal case three, six <u>dollars, if in a criminal case one-dollar;</u>	5921 5922 5923
(9) Venire, for each person named in the writ, if in either a civil or criminal case three, six <u>dollars, if in a criminal case one-dollar;</u>	5924 5925 5926
(10) Summoning each juror, other than on venire, if in either a civil or criminal case three, six <u>dollars, if in a criminal case one-dollar;</u>	5927 5928 5929
(11) Writ of partition, fifteen <u>twenty-five</u> dollars;	5930

(12) Order of sale on partition, for the first tract,	5931
twenty-five <u>fifty</u> dollars, and for each additional tract, five	5932
<u>twenty-five</u> dollars;	5933
(13) Other order of sale of real property, for the first	5934
tract, twenty <u>fifty</u> dollars, and for each additional tract, five	5935
<u>twenty-five</u> dollars;	5936
(14) Administering oath to appraisers, one dollar and fifty	5937
cents <u>three dollars</u> each;	5938
(15) Furnishing copies for advertisements, fifty cents <u>one</u>	5939
<u>dollar</u> for each hundred words;	5940
(16) Copy of indictment, for each defendant, two <u>five</u>	5941
dollars;	5942
(17) All summons, writs, orders, or notices, for the first	5943
name, three <u>six</u> dollars, and for each additional name, fifty cents	5944
<u>one dollar</u> .	5945
(B) In addition to the fee for service and return, the	5946
sheriff may charge:	5947
(1) On each summons, writ, order, or notice, a fee of fifty	5948
cents <u>one dollar</u> per mile for the first mile, and twenty <u>fifty</u>	5949
cents per mile for each additional mile, going and returning,	5950
actual mileage to be charged on each additional name;	5951
(2) Taking bail bond, one dollar <u>three dollars</u> ;	5952
(3) Jail fees, as follows:	5953
(a) For receiving a prisoner, four <u>five</u> dollars <u>each time a</u>	5954
<u>prisoner is received</u> , and for discharging or surrendering a	5955
prisoner, four <u>five</u> dollars; <u>each time a prisoner is discharged or</u>	5956
<u>surrendered. The departure or return of a prisoner from or to a</u>	5957
<u>jail in connection with a program established under section</u>	5958
<u>5147.28 of the Revised Code is not a receipt, discharge, or</u>	5959
<u>surrender of the prisoner for purposes of this division.</u>	5960

(b) Taking a prisoner before a judge or court, per day, three	5961
<u>five</u> dollars;	5962
(c) Calling action, fifty cents <u>one dollar</u> ;	5963
(d) Calling jury, one dollar <u>three dollars</u> ;	5964
(e) Calling each witness, one dollar <u>three dollars</u> ;	5965
(f) Bringing prisoner before court on habeas corpus, four <u>six</u>	5966
dollars + .	5967
(4) Poundage on all moneys actually made and paid to the	5968
sheriff on execution, decree, or sale of real estate, one <u>and</u>	5969
<u>one-half</u> per cent;	5970
(5) Making and executing a deed of land sold on execution,	5971
decree, or order of the court, to be paid by the purchaser,	5972
twenty-five <u>fifty</u> dollars.	5973
When any of the foregoing services <u>described in division (A)</u>	5974
<u>or (B) of this section</u> are rendered by an officer or employee,	5975
whose salary or per diem compensation is paid by the county, the	5976
<u>applicable</u> legal fees <u>and any other extraordinary expenses,</u>	5977
<u>including overtime,</u> provided for such the service in this section	5978
shall be taxed in the costs in the case, and, when such fees are	5979
collected they, shall be paid into the general fund of the county.	5980
The sheriff shall charge the same fees for the execution of	5981
process issued in any other state as he <u>the sheriff</u> charges for	5982
the execution of process of a substantively similar nature that is	5983
issued in this state.	5984
Sec. 323.01. Except as otherwise provided, as used in Chapter	5985
323. of the Revised Code:	5986
(A) "Subdivision" means any county, township, school	5987
district, or municipal corporation.	5988
(B) "Municipal corporation" includes charter municipalities.	5989

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and interest charged pursuant to section 323.121 of the Revised Code; charges added pursuant to section 319.35 of the Revised Code; and all of such charges which remain unpaid from any previous tax year.

(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.

(E) "Delinquent taxes" means:

(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.

(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.

(F) "Current tax year" means, with respect to particular 6021
taxes, the calendar year in which the first installment of taxes 6022
is due prior to any extension granted under section 323.17 of the 6023
Revised Code. 6024

(G) "Liquidated claim" means: 6025

(1) Any sum of money due and payable, upon a written 6026
contractual obligation executed between the subdivision and the 6027
taxpayer, but excluding any amount due on general and special 6028
assessment bonds and notes; 6029

(2) Any sum of money due and payable, for disability 6030
financial assistance or disability medical assistance provided 6031
under Chapter 5115. of the Revised Code that is furnished to or in 6032
behalf of a subdivision, provided that such claim is recognized by 6033
a resolution or ordinance of the legislative body of such 6034
subdivision; 6035

(3) Any sum of money advanced and paid to or received and 6036
used by a subdivision, pursuant to a resolution or ordinance of 6037
such subdivision or its predecessor in interest, and the moral 6038
obligation to repay which sum, when in funds, shall be recognized 6039
by resolution or ordinance by the subdivision. 6040

Sec. 325.31. (A) On the first business day of each month, and 6041
at the end of the officer's term of office, each officer named in 6042
section 325.27 of the Revised Code shall pay into the county 6043
treasury, to the credit of the general county fund, on the warrant 6044
of the county auditor, all fees, costs, penalties, percentages, 6045
allowances, and perquisites collected by the officer's office 6046
during the preceding month or part thereof for official services, 6047
except the fees allowed the county auditor by division (B) of 6048
section 319.54 of the Revised Code, which shall be paid into the 6049
county treasury to the credit of the real estate assessment fund 6050

hereby created. 6051

(B) Moneys to the credit of the real estate assessment fund 6052
may be expended, upon appropriation by the board of county 6053
commissioners, for ~~the purpose of defraying~~ one or more of the 6054
following purposes: 6055

(1) Defraying the cost incurred by the county auditor in 6056
assessing real estate pursuant to Chapter 5713. of the Revised 6057
Code and manufactured and mobile homes pursuant to Chapter 4503. 6058
of the Revised Code, ~~and, at;~~ 6059

(2) At the county auditor's discretion, for any costs related 6060
to county tax maps and also for the expenses incurred by the 6061
county board of revision under Chapter 5715. of the Revised Code- 6062
~~Any;~~ 6063

(3) Defraying expenses incurred by the county auditor for 6064
geographic information systems and mapping programs; 6065

(4) Defraying expenses incurred by the county auditor in the 6066
collection of tangible personal property taxes under Chapters 6067
5711. and 5719. of the Revised Code; 6068

(5) Deferring expenses and fees incurred by the county 6069
auditor in the collection of estate taxes under Chapter 5731. of 6070
the Revised Code. 6071

Any expenditures made from the real estate assessment fund 6072
shall comply with rules that the tax commissioner adopts under 6073
division (O) of section 5703.05 of the Revised Code. Those rules 6074
shall include a requirement that a copy of any appraisal plans, 6075
progress of work reports, contracts, or other documents required 6076
to be filed with the tax commissioner shall be filed also with the 6077
board of county commissioners. 6078

The board of county commissioners shall not transfer moneys 6079
required to be deposited in the real estate assessment fund to any 6080

other fund. Following an assessment of real property pursuant to 6081
Chapter 5713. of the Revised Code, or an assessment of a 6082
manufactured or mobile home pursuant to Chapter 4503. of the 6083
Revised Code, any moneys not expended for the purpose of defraying 6084
the cost incurred in assessing real estate or manufactured or 6085
mobile homes, or for costs related to county tax maps, or for the 6086
purpose of defraying the expenses ~~of the county board of revision~~ 6087
described in divisions (B)(2), (3), (4), and (5) of this section, 6088
and thereby remaining to the credit of the real estate assessment 6089
fund, shall be apportioned ratably and distributed to those taxing 6090
authorities that contributed to the fund. However, no such 6091
distribution shall be made if the amount of such unexpended moneys 6092
remaining to the credit of the real estate assessment fund does 6093
not exceed five thousand dollars. 6094

(C) None of the officers named in section 325.27 of the 6095
Revised Code shall collect any fees from the county. Each of such 6096
officers shall, at the end of each calendar year, make and file a 6097
sworn statement with the board of county commissioners of all such 6098
fees, costs, penalties, percentages, allowances, and perquisites 6099
which have been due in the officer's office and unpaid for more 6100
than one year prior to the date such statement is required to be 6101
made. 6102

Sec. 329.03. (A) As used in this section: 6103

(1) "Applicant" or "recipient" means an applicant for or 6104
participant in the Ohio works first program established under 6105
Chapter 5107. of the Revised Code or an applicant for or recipient 6106
of disability financial assistance under Chapter 5115. of the 6107
Revised Code. 6108

(2) "Voluntary direct deposit" means a system established 6109
pursuant to this section under which cash assistance payments to 6110
recipients who agree to direct deposit are made by direct deposit 6111

by electronic transfer to an account in a financial institution 6112
designated under this section. 6113

(3) "Mandatory direct deposit" means a system established 6114
pursuant to this section under which cash assistance payments to 6115
all participants in the Ohio works first program or recipients of 6116
disability financial assistance, other than those exempt under 6117
division (E) of this section, are made by direct deposit by 6118
electronic transfer to an account in a financial institution 6119
designated under this section. 6120

(B) A board of county commissioners may by adoption of a 6121
resolution require the county department of job and family 6122
services to establish a direct deposit system for distributing 6123
cash assistance payments under Ohio works first, disability 6124
financial assistance, or both, unless the director of job and 6125
family services has provided for those payments to be made by 6126
electronic benefit transfer pursuant to section 5101.33 of the 6127
Revised Code. Voluntary or mandatory direct deposit may be applied 6128
to either of the programs. The resolution shall specify for each 6129
program for which direct deposit is to be established whether 6130
direct deposit is voluntary or mandatory. The board may require 6131
the department to change or terminate direct deposit by adopting a 6132
resolution to change or terminate it. Within ninety days after 6133
adopting a resolution under this division, the board shall certify 6134
one copy of the resolution to the director of job and family 6135
services and one copy to the office of budget and management. The 6136
director of job and family services may adopt rules governing 6137
establishment of direct deposit by county departments of job and 6138
family services. 6139

The county department of job and family services shall 6140
determine what type of account will be used for direct deposit and 6141
negotiate with financial institutions to determine the charges, if 6142
any, to be imposed by a financial institution for establishing and 6143

maintaining such accounts. Under voluntary direct deposit, the 6144
county department of job and family services may pay all charges 6145
imposed by a financial institution for establishing and 6146
maintaining an account in which direct deposits are made for a 6147
recipient. Under mandatory direct deposit, the county department 6148
of job and family services shall pay all charges imposed by a 6149
financial institution for establishing and maintaining such an 6150
account. No financial institution shall impose any charge for such 6151
an account that the institution does not impose on its other 6152
customers for the same type of account. Direct deposit does not 6153
affect the exemption of Ohio works first and disability financial 6154
assistance from attachment, garnishment, or other like process 6155
afforded by sections 5107.75 and ~~5115.07~~ 5115.06 of the Revised 6156
Code. 6157

(C) The county department of job and family services shall, 6158
within sixty days after a resolution requiring the establishment 6159
of direct deposit is adopted, establish procedures governing 6160
direct deposit. 6161

Within one hundred eighty days after the resolution is 6162
adopted, the county department shall: 6163

(1) Inform each applicant or recipient of the procedures 6164
governing direct deposit, including in the case of voluntary 6165
direct deposit those that prescribe the conditions under which a 6166
recipient may change from one method of payment to another; 6167

(2) Obtain from each applicant or recipient an authorization 6168
form to designate a financial institution equipped for and 6169
authorized by law to accept direct deposits by electronic transfer 6170
and the account into which the applicant or recipient wishes the 6171
payments to be made, or in the case of voluntary direct deposit 6172
states the applicant's or recipient's election to receive such 6173
payments in the form of a paper warrant. 6174

The department may require a recipient to complete a new authorization form whenever the department considers it necessary.

A recipient's designation of a financial institution and account shall remain in effect until withdrawn in writing or dishonored by the financial institution, except that no change may be made in the authorization form until the next eligibility redetermination of the recipient unless the department feels that good grounds exist for an earlier change.

(D) An applicant or recipient without an account who either agrees or is required to receive payments by direct deposit shall have ten days after receiving the authorization form to designate an account suitable for direct deposit. If within the required time the applicant or recipient does not make the designation or requests that the department make the designation, the department shall designate a financial institution and help the recipient to open an account.

(E) At the time of giving an applicant or recipient the authorization form, the county department of job and family services of a county with mandatory direct deposit shall inform each applicant or recipient of the basis for exemption and the right to request exemption from direct deposit.

Under mandatory direct deposit, an applicant or recipient who wishes to receive payments in the form of a paper warrant shall record on the authorization form a request for exemption under this division and the basis for the exemption.

The department shall exempt from mandatory direct deposit any recipient who requests exemption and is any of the following:

- (1) Over age sixty-five;
- (2) Blind or disabled;
- (3) Likely, in the judgment of the department, to be caused

personal hardship by direct deposit. 6205

A recipient granted an exemption under this division shall 6206
receive payments for which the recipient is eligible in the form 6207
of paper warrants. 6208

(F) The county department of job and family services shall 6209
bear the full cost of the amount of any replacement warrant issued 6210
to a recipient for whom an authorization form as provided in this 6211
section has not been obtained within one hundred eighty days after 6212
the later of the date the board of county commissioners adopts a 6213
resolution requiring payments of financial assistance by direct 6214
deposit to accounts of recipients of Ohio works first or 6215
disability financial assistance or the date the recipient made 6216
application for assistance, and shall not be reimbursed by the 6217
state for any part of the cost. Thereafter, the county department 6218
of job and family services shall continue to bear the full cost of 6219
each replacement warrant issued until the board of county 6220
commissioners requires the county department of job and family 6221
services to obtain from each such recipient the authorization 6222
forms as provided in this section. 6223

Sec. 329.04. (A) The county department of job and family 6224
services shall have, exercise, and perform the following powers 6225
and duties: 6226

(1) Perform any duties assigned by the state department of 6227
job and family services regarding the provision of public family 6228
services, including the provision of the following services to 6229
prevent or reduce economic or personal dependency and to 6230
strengthen family life: 6231

(a) Services authorized by a Title IV-A program, as defined 6232
in section 5101.80 of the Revised Code; 6233

(b) Social services authorized by Title XX of the "Social 6234

Security Act" and provided for by section 5101.46 of the Revised Code; 6235
6236

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services. 6237
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(2) Administer disability financial assistance ~~under Chapter 5115. of the Revised Code,~~ as required by the state department of job and family services under section 5115.03 of the Revised Code; 6245
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6247

(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code; 6248
6249
6250

~~(3)~~(4) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law; 6251
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6253

~~(4)~~(5) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities; 6254
6255
6256

~~(5)~~(6) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services at the close of each fiscal year; 6257
6258
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~~(6)~~(7) Exercise any powers and duties relating to family services or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace; 6260
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6262
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~~(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 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 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 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 human 6296
services approves the changes. 6297

Sec. 329.051. The county department of job and family 6298
services shall make voter registration applications as prescribed 6299
by the secretary of state under section 3503.10 of the Revised 6300
Code available to persons who are applying for, receiving 6301
assistance from, or participating in any of the following: 6302

(A) The disability financial assistance program established 6303
under Chapter 5115. of the Revised Code; 6304

(B) The disability medical assistance program established 6305
under Chapter 5115. of the Revised Code; 6306

(C) The medical assistance program established under Chapter 6307
5111. of the Revised Code; 6308

~~(C)~~(D) The Ohio works first program established under Chapter 6309
5107. of the Revised Code; 6310

~~(D)~~(E) The prevention, retention, and contingency program 6311
established under Chapter 5108. of the Revised Code. 6312

Sec. 340.021. (A) In an alcohol, drug addiction, and mental 6313
health service district comprised of a county with a population of 6314
two hundred fifty thousand or more on ~~the effective date of this~~ 6315
~~section~~ October 10, 1989, the board of county commissioners shall, 6316
within thirty days of ~~the effective date of this section~~ October 6317
10, 1989, establish an alcohol and drug addiction services board 6318
as the entity responsible for providing alcohol and drug addiction 6319
services in the county, unless, prior to that date, the board 6320
adopts a resolution providing that the entity responsible for 6321
providing the services is a board of alcohol, drug addiction, and 6322
mental health services. If the board of county commissioners 6323
establishes an alcohol and drug addiction services board, the 6324
community mental health board established under former section 6325

340.02 of the Revised Code shall serve as the entity responsible 6326
for providing mental health services in the county. A community 6327
mental health board has all the powers, duties, and obligations of 6328
a board of alcohol, drug addiction, and mental health services 6329
with regard to mental health services. An alcohol and drug 6330
addiction services board has all the powers, duties, and 6331
obligations of a board of alcohol, drug addiction, and mental 6332
health services with regard to alcohol and drug addiction 6333
services. Any provision of the Revised Code that refers to a board 6334
of alcohol, drug addiction, and mental health services with regard 6335
to mental health services also refers to a community mental health 6336
board and any provision that refers to a board of alcohol, drug 6337
addiction, and mental health services with regard to alcohol and 6338
drug addiction services also refers to an alcohol and drug 6339
addiction services board. 6340

An alcohol and drug addiction services board shall consist of 6341
eighteen members, six of whom shall be appointed by the director 6342
of alcohol and drug addiction services and twelve of whom shall be 6343
appointed by the board of county commissioners. Of the members 6344
appointed by the director, one shall be a person who has received 6345
or is receiving services for alcohol or drug addiction, one shall 6346
be a parent or relative of such a person, one shall be a 6347
professional in the field of alcohol or drug addiction services, 6348
and one shall be an advocate for persons receiving treatment for 6349
alcohol or drug addiction. The membership of the board shall, as 6350
nearly as possible, reflect the composition of the population of 6351
the service district as to race and sex. Members shall be 6352
residents of the service district and shall be interested in 6353
alcohol and drug addiction services. Requirements for membership, 6354
including prohibitions against certain family and business 6355
relationships, and terms of office shall be the same as those for 6356
members of boards of alcohol, drug addiction, and mental health 6357
services. 6358

~~(B)~~ A community mental health board shall consist of eighteen 6359
members, six of whom shall be appointed by the director of mental 6360
health and twelve of whom shall be appointed by the board of 6361
county commissioners. Of the members appointed by the director, 6362
one shall be a person who has received or is receiving mental 6363
health services, one shall be a parent or relative of such a 6364
person, one shall be a psychiatrist or a physician, and one shall 6365
be a mental health professional. The membership of the board as 6366
nearly as possible shall reflect the composition of the population 6367
of the service district as to race and sex. Members shall be 6368
residents of the service district and shall be interested in 6369
mental health services. Requirements for membership, including 6370
prohibitions against certain family and business relationships, 6371
and terms of office shall be the same as those for members of 6372
boards of alcohol, drug addiction, and mental health services. 6373

(B) If a board of county commissioners subject to division 6374
(A) of this section did not adopt a resolution providing for a 6375
board of alcohol, drug addiction, and mental health services, the 6376
board of county commissioners may adopt a resolution providing for 6377
such a board, subject to both of the following: 6378

(1) The resolution shall be adopted not later than January 1, 6379
2004. 6380

(2) Before adopting the resolution, the board of county 6381
commissioners shall provide notice of the proposed resolution to 6382
the alcohol and drug services board and the community mental 6383
health board and shall provide both boards an opportunity to 6384
comment on the proposed resolution. 6385

Sec. 340.03. (A) Subject to rules issued by the director of 6386
mental health after consultation with relevant constituencies as 6387
required by division (A)(11) of section 5119.06 of the Revised 6388
Code, with regard to mental health services, the board of alcohol, 6389

drug addiction, and mental health services shall: 6390

(1) Serve as the community mental health planning agency for 6391
the county or counties under its jurisdiction, and in so doing it 6392
shall: 6393

(a) Evaluate the need for facilities and community mental 6394
health services; 6395

(b) In cooperation with other local and regional planning and 6396
funding bodies and with relevant ethnic organizations, assess the 6397
community mental health needs, set priorities, and develop plans 6398
for the operation of facilities and community mental health 6399
services; 6400

(c) In accordance with guidelines issued by the director of 6401
mental health after consultation with board representatives, 6402
develop and submit to the department of mental health, no later 6403
than six months prior to the conclusion of the fiscal year in 6404
which the board's current plan is scheduled to expire, a community 6405
mental health plan listing community mental health needs, 6406
including the needs of all residents of the district now residing 6407
in state mental institutions and severely mentally disabled 6408
adults, children, and adolescents; all children subject to a 6409
determination made pursuant to section 121.38 of the Revised Code; 6410
and all the facilities and community mental health services that 6411
are or will be in operation or provided during the period for 6412
which the plan will be in operation in the service district to 6413
meet such needs. 6414

The plan shall include, but not be limited to, a statement of 6415
which of the services listed in section 340.09 of the Revised Code 6416
the board intends to provide or purchase, an explanation of how 6417
the board intends to make any payments that it may be required to 6418
pay under section 5119.62 of the Revised Code, a statement of the 6419
inpatient and community-based services the board proposes that the 6420

department operate, an assessment of the number and types of 6421
residential facilities needed, and such other information as the 6422
department requests, and a budget for moneys the board expects to 6423
receive. The board shall also submit an allocation request for 6424
state and federal funds. Within sixty days after the department's 6425
determination that the plan and allocation request are complete, 6426
the department shall approve or disapprove the plan and request, 6427
in whole or in part, according to the criteria developed pursuant 6428
to section 5119.61 of the Revised Code. The department's statement 6429
of approval or disapproval shall specify the inpatient and the 6430
community-based services that the department will operate for the 6431
board. Eligibility for financial support shall be contingent upon 6432
an approved plan or relevant part of a plan. 6433

If the director disapproves all or part of any plan, the 6434
director shall inform the board of the reasons for the disapproval 6435
and of the criteria that must be met before the plan may be 6436
approved. The director shall provide the board an opportunity to 6437
present its case on behalf of the plan. The director shall give 6438
the board a reasonable time in which to meet the criteria, and 6439
shall offer the board technical assistance to help it meet the 6440
criteria. 6441

If the approval of a plan remains in dispute thirty days 6442
prior to the conclusion of the fiscal year in which the board's 6443
current plan is scheduled to expire, the board or the director may 6444
request that the dispute be submitted to a mutually agreed upon 6445
third-party mediator with the cost to be shared by the board and 6446
the department. The mediator shall issue to the board and the 6447
department recommendations for resolution of the dispute. Prior to 6448
the conclusion of the fiscal year in which the current plan is 6449
scheduled to expire, the director, taking into consideration the 6450
recommendations of the mediator, shall make a final determination 6451
and approve or disapprove the plan, in whole or in part. 6452

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. If the director does not approve all or part of the amendment within thirty days after it is submitted, the amendment or part of it shall be considered to have been approved. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Receive, compile, and transmit to the department of mental health applications for state reimbursement;

(e) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or from a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, 6484
cooperate with the director of mental health in visiting and 6485
evaluating whether the services of a community mental health 6486
agency satisfy the certification standards established by rules 6487
adopted under that section; 6488

(4) In accordance with criteria established under division 6489
(G) of section 5119.61 of the Revised Code, review and evaluate 6490
the quality, effectiveness, and efficiency of services provided 6491
through its community mental health plan and submit its findings 6492
and recommendations to the department of mental health; 6493

(5) In accordance with section 5119.22 of the Revised Code, 6494
review applications for residential facility licenses and 6495
recommend to the department of mental health approval or 6496
disapproval of applications; 6497

(6) Audit, in accordance with rules adopted by the auditor of 6498
state pursuant to section 117.20 of the Revised Code, at least 6499
annually all programs and services provided under contract with 6500
the board. In so doing, the board may contract for or employ the 6501
services of private auditors. A copy of the fiscal audit report 6502
shall be provided to the director of mental health, the auditor of 6503
state, and the county auditor of each county in the board's 6504
district. 6505

(7) Recruit and promote local financial support for mental 6506
health programs from private and public sources; 6507

(8)(a) Enter into contracts with public and private 6508
facilities for the operation of facility services included in the 6509
board's community mental health plan and enter into contracts with 6510
public and private community mental health agencies for the 6511
provision of community mental health services listed in section 6512
340.09 of the Revised Code and included in the board's community 6513
mental health plan. Contracts with community mental health 6514

agencies are subject to section 5119.611 of the Revised Code. 6515
Section 307.86 of the Revised Code does not apply to contracts 6516
entered into under this division. In contracting with a community 6517
mental health agency, a board shall consider the cost 6518
effectiveness of services provided by that agency and the quality 6519
and continuity of care, and may review cost elements, including 6520
salary costs, of the services to be provided. A utilization review 6521
process shall be established as part of the contract for services 6522
entered into between a board and a community mental health agency. 6523
The board may establish this process in a way that is most 6524
effective and efficient in meeting local needs. In the case of a 6525
contract with a community mental health facility ~~described, as~~ 6526
defined in ~~division (B) of~~ section 5111.022 of the Revised Code, 6527
to provide services ~~established by~~ listed in division ~~(A)(B)~~ of 6528
that section, the contract shall provide for the facility to be 6529
paid in accordance with the contract entered into between the 6530
departments of job and family services and mental health under 6531
~~division (E) of that~~ section 5111.91 of the Revised Code and any 6532
rules adopted under division (A) of section 5119.61 of the Revised 6533
Code. 6534

If either the board or a facility or community mental health 6535
agency with which the board contracts under division (A)(8)(a) of 6536
this section proposes not to renew the contract or proposes 6537
substantial changes in contract terms, the other party shall be 6538
given written notice at least one hundred twenty days before the 6539
expiration date of the contract. During the first sixty days of 6540
this one hundred twenty-day period, both parties shall attempt to 6541
resolve any dispute through good faith collaboration and 6542
negotiation in order to continue to provide services to persons in 6543
need. If the dispute has not been resolved sixty days before the 6544
expiration date of the contract, either party may notify the 6545
department of mental health of the unresolved dispute. The 6546
director may require both parties to submit the dispute to a third 6547

party with the cost to be shared by the board and the facility or 6548
community mental health agency. The third party shall issue to the 6549
board, the facility or agency, and the department recommendations 6550
on how the dispute may be resolved twenty days prior to the 6551
expiration date of the contract, unless both parties agree to a 6552
time extension. The director shall adopt rules establishing the 6553
procedures of this dispute resolution process. 6554

(b) With the prior approval of the director of mental health, 6555
a board may operate a facility or provide a community mental 6556
health service as follows, if there is no other qualified private 6557
or public facility or community mental health agency that is 6558
immediately available and willing to operate such a facility or 6559
provide the service: 6560

(i) In an emergency situation, any board may operate a 6561
facility or provide a community mental health service in order to 6562
provide essential services for the duration of the emergency; 6563

(ii) In a service district with a population of at least one 6564
hundred thousand but less than five hundred thousand, a board may 6565
operate a facility or provide a community mental health service 6566
for no longer than one year; 6567

(iii) In a service district with a population of less than 6568
one hundred thousand, a board may operate a facility or provide a 6569
community mental health service for no longer than one year, 6570
except that such a board may operate a facility or provide a 6571
community mental health service for more than one year with the 6572
prior approval of the director and the prior approval of the board 6573
of county commissioners, or of a majority of the boards of county 6574
commissioners if the district is a joint-county district. 6575

The director shall not give a board approval to operate a 6576
facility or provide a community mental health service under 6577
division (A)(8)(b)(ii) or (iii) of this section unless the 6578

director determines that it is not feasible to have the department 6579
operate the facility or provide the service. 6580

The director shall not give a board approval to operate a 6581
facility or provide a community mental health service under 6582
division (A)(8)(b)(iii) of this section unless the director 6583
determines that the board will provide greater administrative 6584
efficiency and more or better services than would be available if 6585
the board contracted with a private or public facility or 6586
community mental health agency. 6587

The director shall not give a board approval to operate a 6588
facility previously operated by a person or other government 6589
entity unless the board has established to the director's 6590
satisfaction that the person or other government entity cannot 6591
effectively operate the facility or that the person or other 6592
government entity has requested the board to take over operation 6593
of the facility. The director shall not give a board approval to 6594
provide a community mental health service previously provided by a 6595
community mental health agency unless the board has established to 6596
the director's satisfaction that the agency cannot effectively 6597
provide the service or that the agency has requested the board 6598
take over providing the service. 6599

The director shall review and evaluate a board's operation of 6600
a facility and provision of community mental health service under 6601
division (A)(8)(b) of this section. 6602

Nothing in division (A)(8)(b) of this section authorizes a 6603
board to administer or direct the daily operation of any facility 6604
or community mental health agency, but a facility or agency may 6605
contract with a board to receive administrative services or staff 6606
direction from the board under the direction of the governing body 6607
of the facility or agency. 6608

(9) Approve fee schedules and related charges or adopt a unit 6609

cost schedule or other methods of payment for contract services 6610
provided by community mental health agencies in accordance with 6611
guidelines issued by the department as necessary to comply with 6612
state and federal laws pertaining to financial assistance; 6613

(10) Submit to the director and the county commissioners of 6614
the county or counties served by the board, and make available to 6615
the public, an annual report of the programs under the 6616
jurisdiction of the board, including a fiscal accounting; 6617

(11) Establish, to the extent resources are available, a 6618
community support system, which provides for treatment, support, 6619
and rehabilitation services and opportunities. The essential 6620
elements of the system include, but are not limited to, the 6621
following components in accordance with section 5119.06 of the 6622
Revised Code: 6623

(a) To locate persons in need of mental health services to 6624
inform them of available services and benefits mechanisms; 6625

(b) Assistance for clients to obtain services necessary to 6626
meet basic human needs for food, clothing, shelter, medical care, 6627
personal safety, and income; 6628

(c) Mental health care, including, but not limited to, 6629
outpatient, partial hospitalization, and, where appropriate, 6630
inpatient care; 6631

(d) Emergency services and crisis intervention; 6632

(e) Assistance for clients to obtain vocational services and 6633
opportunities for jobs; 6634

(f) The provision of services designed to develop social, 6635
community, and personal living skills; 6636

(g) Access to a wide range of housing and the provision of 6637
residential treatment and support; 6638

(h) Support, assistance, consultation, and education for 6639

families, friends, consumers of mental health services, and 6640
others; 6641

(i) Recognition and encouragement of families, friends, 6642
neighborhood networks, especially networks that include racial and 6643
ethnic minorities, churches, community organizations, and 6644
meaningful employment as natural supports for consumers of mental 6645
health services; 6646

(j) Grievance procedures and protection of the rights of 6647
consumers of mental health services; 6648

(k) Case management, which includes continual individualized 6649
assistance and advocacy to ensure that needed services are offered 6650
and procured. 6651

(12) Designate the treatment program, agency, or facility for 6652
each person involuntarily committed to the board pursuant to 6653
Chapter 5122. of the Revised Code and authorize payment for such 6654
treatment. The board shall provide the least restrictive and most 6655
appropriate alternative that is available for any person 6656
involuntarily committed to it and shall assure that the services 6657
listed in section 340.09 of the Revised Code are available to 6658
severely mentally disabled persons residing within its service 6659
district. The board shall establish the procedure for authorizing 6660
payment for services, which may include prior authorization in 6661
appropriate circumstances. The board may provide for services 6662
directly to a severely mentally disabled person when life or 6663
safety is endangered and when no community mental health agency is 6664
available to provide the service. 6665

(13) Establish a method for evaluating referrals for 6666
involuntary commitment and affidavits filed pursuant to section 6667
5122.11 of the Revised Code in order to assist the probate 6668
division of the court of common pleas in determining whether there 6669
is probable cause that a respondent is subject to involuntary 6670

hospitalization and what alternative treatment is available and 6671
appropriate, if any; 6672

(14) Ensure that apartments or rooms built, subsidized, 6673
renovated, rented, owned, or leased by the board or a community 6674
mental health agency have been approved as meeting minimum fire 6675
safety standards and that persons residing in the rooms or 6676
apartments are receiving appropriate and necessary services, 6677
including culturally relevant services, from a community mental 6678
health agency. This division does not apply to residential 6679
facilities licensed pursuant to section 5119.22 of the Revised 6680
Code. 6681

(15) Establish a mechanism for involvement of consumer 6682
recommendation and advice on matters pertaining to mental health 6683
services in the alcohol, drug addiction, and mental health service 6684
district; 6685

(16) Perform the duties under section 3722.18 of the Revised 6686
Code required by rules adopted under section 5119.61 of the 6687
Revised Code regarding referrals by the board or mental health 6688
agencies under contract with the board of individuals with mental 6689
illness or severe mental disability to adult care facilities and 6690
effective arrangements for ongoing mental health services for the 6691
individuals. The board is accountable in the manner specified in 6692
the rules for ensuring that the ongoing mental health services are 6693
effectively arranged for the individuals. 6694

(B) The board shall establish such rules, operating 6695
procedures, standards, and bylaws, and perform such other duties 6696
as may be necessary or proper to carry out the purposes of this 6697
chapter. 6698

(C) A board of alcohol, drug addiction, and mental health 6699
services may receive by gift, grant, devise, or bequest any 6700
moneys, lands, or property for the benefit of the purposes for 6701

which the board is established, and may hold and apply it 6702
according to the terms of the gift, grant, or bequest. All money 6703
received, including accrued interest, by gift, grant, or bequest 6704
shall be deposited in the treasury of the county, the treasurer of 6705
which is custodian of the alcohol, drug addiction, and mental 6706
health services funds to the credit of the board and shall be 6707
available for use by the board for purposes stated by the donor or 6708
grantor. 6709

(D) No board member or employee of a board of alcohol, drug 6710
addiction, and mental health services shall be liable for injury 6711
or damages caused by any action or inaction taken within the scope 6712
of the board member's official duties or the employee's 6713
employment, whether or not such action or inaction is expressly 6714
authorized by this section, section 340.033, or any other section 6715
of the Revised Code, unless such action or inaction constitutes 6716
willful or wanton misconduct. Chapter 2744. of the Revised Code 6717
applies to any action or inaction by a board member or employee of 6718
a board taken within the scope of the board member's official 6719
duties or employee's employment. For the purposes of this 6720
division, the conduct of a board member or employee shall not be 6721
considered willful or wanton misconduct if the board member or 6722
employee acted in good faith and in a manner that the board member 6723
or employee reasonably believed was in or was not opposed to the 6724
best interests of the board and, with respect to any criminal 6725
action or proceeding, had no reasonable cause to believe the 6726
conduct was unlawful. 6727

(E) The meetings held by any committee established by a board 6728
of alcohol, drug addiction, and mental health services shall be 6729
considered to be meetings of a public body subject to section 6730
121.22 of the Revised Code. 6731

Sec. 341.05. (A) The sheriff shall assign sufficient staff to 6732

ensure the safe and secure operation of the county jail, but staff 6733
shall be assigned only to the extent such staff can be provided 6734
with funds appropriated to the sheriff at the discretion of the 6735
board of county commissioners. The staff may include any of the 6736
following: 6737

(1) An administrator for the jail; 6738

(2) Jail officers, including civilian jail officers who are 6739
not sheriff's deputies, to conduct security duties; 6740

(3) Other necessary employees to assist in the operation of 6741
the county jail. 6742

(B) The sheriff shall employ a sufficient number of female 6743
staff to be available to perform all reception and release 6744
procedures for female prisoners. These female employees shall be 6745
on duty for the duration of the confinement of the female 6746
prisoners. 6747

(C) The jail administrator and civilian jail officers 6748
appointed by the sheriff shall have all the powers of police 6749
officers on the jail grounds as are necessary for the proper 6750
performance of the duties relating to their positions at the jail 6751
and as are consistent with their level of training. 6752

(D) The sheriff may authorize civilian jail officers to wear 6753
a standard uniform consistent with their prescribed authority, in 6754
accordance with section 311.281 of the Revised Code. Civilian jail 6755
officer uniforms shall be differentiated clearly from the uniforms 6756
worn by sheriff's deputies. 6757

(E) ~~The~~ Except as provided in division (B) of section 341.25 6758
of the Revised Code, the compensation of jail staff shall be 6759
payable from the general fund of the county, upon the warrant of 6760
the auditor, in accordance with standard county payroll 6761
procedures. 6762

Sec. 341.25. (A) The sheriff may establish a commissary for 6763
the jail. The commissary may be established either in-house or by 6764
another arrangement. If a commissary is established, all persons 6765
incarcerated in the jail shall receive commissary privileges. A 6766
person's purchases from the commissary shall be deducted from the 6767
person's account record in the jail's business office. The 6768
commissary shall provide for the distribution to indigent persons 6769
incarcerated in the jail necessary hygiene articles and writing 6770
materials. 6771

(B) If a commissary is established, the sheriff shall 6772
establish a commissary fund for the jail. The management of funds 6773
in the commissary fund shall be strictly controlled in accordance 6774
with procedures adopted by the auditor of state. Commissary fund 6775
revenue over and above operating costs and reserve shall be 6776
considered profits. All profits from the commissary fund shall be 6777
used to purchase supplies and equipment, and to provide life 6778
skills training and education or treatment services, or both, for 6779
the benefit of persons incarcerated in the jail, and to pay salary 6780
and benefits for employees of the sheriff who work in or are 6781
employed for the purpose of providing service to the commissary. 6782
The sheriff shall adopt rules for the operation of any commissary 6783
fund the sheriff establishes. 6784

Sec. 504.03. (A)(1) If a limited home rule government is 6785
adopted pursuant to section 504.02 of the Revised Code, it shall 6786
remain in effect for at least three years except as otherwise 6787
provided in division (B) of this section. At the end of that 6788
period, if the board of township trustees determines that that 6789
government is not in the best interests of the township, it may 6790
adopt a resolution causing the board of elections to submit to the 6791
electors of the unincorporated area of the township the question 6792
of whether the township should continue the limited home rule 6793

government. The question shall be voted upon at the next general 6794
election occurring at least seventy-five days after the 6795
certification of the resolution to the board of elections. After 6796
certification of the resolution, the board of elections shall 6797
submit the question to the electors of the unincorporated area of 6798
the township, and the ballot language shall be substantially as 6799
follows: 6800

"Shall the township of (name) continue the 6801
limited home rule government under which it is operating? 6802
..... For continuation of the limited home rule government 6803
..... Against continuation of the limited home rule government" 6804

(2) At least forty-five days before the election on the 6805
question of continuing the limited home rule government, the board 6806
of township trustees shall have notice of the election published 6807
in a newspaper of general circulation in the township for three 6808
consecutive weeks and have the notice posted in five conspicuous 6809
places in the unincorporated area of the township. 6810

(B) The electors of a township that has adopted a limited 6811
home rule government may propose at any time by initiative 6812
petition, in accordance with section 504.14 of the Revised Code, a 6813
resolution submitting to the electors in the unincorporated area 6814
of the township, in an election, the question set forth in 6815
division (A)(1) of this section. 6816

(C) If a majority of the votes cast under division (A) or (B) 6817
of this section on the proposition of continuing the limited home 6818
rule government is in the negative, that government is terminated 6819
effective on the first day of January immediately following the 6820
election, and a limited home rule government shall not be adopted 6821
in the unincorporated area of the township pursuant to section 6822
504.02 of the Revised Code for at least three years after that 6823
date. 6824

(D) If a limited home rule government is terminated under 6825
this section, the board of township trustees immediately shall 6826
adopt a resolution repealing all resolutions adopted pursuant to 6827
this chapter that are not authorized by any other section of the 6828
Revised Code outside this chapter, effective on the first day of 6829
January immediately following the election described in division 6830
(A) or (B) of this section. However, no resolution adopted under 6831
this division shall affect or impair the obligations of the 6832
township under any security issued or contracts entered into by 6833
the township in connection with the financing of any water supply 6834
facility or sewer improvement under sections 504.18 to 504.20 of 6835
the Revised Code or the authority of the township to collect or 6836
enforce any assessments or other revenues constituting security 6837
for or source of payments of debt service charges of those 6838
securities. 6839

(E) Upon the termination of a limited home rule government 6840
under this section, if the township had converted its board of 6841
township trustees to a five-member board ~~under section 504.21 of~~ 6842
~~the Revised Code before the effective date of this amendment~~, the 6843
current board member who received the lowest number of votes of 6844
the current board members who were elected at the most recent 6845
election for township trustees, and the current board member who 6846
received the lowest number of votes of the current board members 6847
who were elected at the second most recent election for township 6848
trustees, shall cease to be township trustees on the date that the 6849
limited home rule government terminates. Their offices likewise 6850
shall cease to exist at that time, and the board shall continue as 6851
a three-member board as provided in section 505.01 of the Revised 6852
Code. 6853

Sec. 504.04. (A) A township that adopts a limited home rule 6854
government may do all of the following by resolution, provided 6855

that any of these resolutions, other than a resolution to supply 6856
water or sewer services in accordance with sections 504.18 to 6857
504.20 of the Revised Code, may be enforced only by the imposition 6858
of civil fines as authorized in this chapter: 6859

(1) Exercise all powers of local self-government within the 6860
unincorporated area of the township, other than powers that are in 6861
conflict with general laws, except that the township shall comply 6862
with the requirements and prohibitions of this chapter, and shall 6863
enact no taxes other than those authorized by general law, and 6864
except that no resolution adopted pursuant to this chapter shall 6865
encroach upon the powers, duties, and privileges of elected 6866
township officers or change, alter, combine, eliminate, or 6867
otherwise modify the form or structure of the township government 6868
unless the change is required or permitted by this chapter; 6869

(2) Adopt and enforce within the unincorporated area of the 6870
township local police, sanitary, and other similar regulations 6871
that are not in conflict with general laws or otherwise prohibited 6872
by division (B) of this section; 6873

(3) Supply water and sewer services to users within the 6874
unincorporated area of the township in accordance with sections 6875
504.18 to 504.20 of the Revised Code. 6876

(B) No resolution adopted pursuant to this chapter shall do 6877
any of the following: 6878

(1) Create a criminal offense or impose criminal penalties, 6879
except as authorized by division (A) of this section; 6880

(2) Impose civil fines other than as authorized by this 6881
chapter; 6882

(3) Establish or revise subdivision regulations, road 6883
construction standards, urban sediment rules, or storm water and 6884
drainage regulations; 6885

(4) Establish or revise building standards, building codes, 6886
and other standard codes except as provided in section 504.13 of 6887
the Revised Code; 6888

(5) Increase, decrease, or otherwise alter the powers or 6889
duties of a township under any other chapter of the Revised Code 6890
pertaining to agriculture or the conservation or development of 6891
natural resources; 6892

(6) Establish regulations affecting hunting, trapping, 6893
fishing, or the possession, use, or sale of firearms; 6894

(7) Establish or revise water or sewer regulations, except in 6895
accordance with sections 504.18 and 504.19 of the Revised Code. 6896

Nothing in this chapter shall be construed as affecting the 6897
powers of counties with regard to the subjects listed in divisions 6898
(B)(3) to (5) of this section. 6899

(C) Under a limited home rule government, all officers shall 6900
have the qualifications, and be nominated, elected, or appointed, 6901
as provided in Chapter 505. of the Revised Code, except that the 6902
board of township trustees shall appoint a full-time or part-time 6903
law director pursuant to section 504.15 of the Revised Code, and 6904
except that ~~section 504.21 of the Revised Code also shall apply if~~ 6905
a five-member board of township trustees ~~is~~ approved for the 6906
township before the effective date of this amendment shall 6907
continue to serve as the legislative authority with successive 6908
members serving for four-year terms of office until a termination 6909
of a limited home rule government under section 504.03 of the 6910
Revised Code. 6911

(D) In case of conflict between resolutions enacted by a 6912
board of township trustees and municipal ordinances or 6913
resolutions, the ordinance or resolution enacted by the municipal 6914
corporation prevails. In case of conflict between resolutions 6915
enacted by a board of township trustees and any county resolution, 6916

the resolution enacted by the board of township trustees prevails. 6917

Sec. 507.09. (A) Except as otherwise provided in division (D) 6918
of this section, the township clerk shall be entitled to 6919
compensation as follows: 6920

(1) In townships having a budget of fifty thousand dollars or 6921
less, three thousand five hundred dollars; 6922

(2) In townships having a budget of more than fifty thousand 6923
but not more than one hundred thousand dollars, five thousand five 6924
hundred dollars; 6925

(3) In townships having a budget of more than one hundred 6926
thousand but not more than two hundred fifty thousand dollars, 6927
seven thousand seven hundred dollars; 6928

(4) In townships having a budget of more than two hundred 6929
fifty thousand but not more than five hundred thousand dollars, 6930
nine thousand nine hundred dollars; 6931

(5) In townships having a budget of more than five hundred 6932
thousand but not more than seven hundred fifty thousand dollars, 6933
eleven thousand dollars; 6934

(6) In townships having a budget of more than seven hundred 6935
fifty thousand but not more than one million five hundred thousand 6936
dollars, thirteen thousand two hundred dollars; 6937

(7) In townships having a budget of more than one million 6938
five hundred thousand but not more than three million five hundred 6939
thousand dollars, fifteen thousand four hundred dollars; 6940

(8) In townships having a budget of more than three million 6941
five hundred thousand dollars but not more than six million 6942
dollars, sixteen thousand five hundred dollars; 6943

(9) In townships having a budget of more than six million 6944
dollars, seventeen thousand six hundred dollars. 6945

(B) Any township clerk may elect to receive less than the compensation the clerk is entitled to under division (A) of this section. Any clerk electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of its next board meeting.

(C) The compensation of the township clerk shall be paid in equal monthly payments. If the office of clerk is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office.

(D) Beginning in calendar year 1999, the township clerk shall be entitled to compensation as follows:

(1) In calendar year 1999, the compensation specified in division (A) of this section increased by three per cent;

(2) In calendar year 2000, the compensation determined under division (D)(1) of this section increased by three per cent;

(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;

(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, nineteen thousand eight hundred ten dollars; and in townships having a budget of more than ten million dollars, twenty thousand nine hundred dollars;

(5) In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent;

(6) In calendar year 2004, except in townships having a

budget of more than six million dollars, the compensation 6976
determined under division (D)(5) of this section for the calendar 6977
year 2003 increased by three per cent; in townships having a 6978
budget of more than six million but not more than ten million 6979
dollars, twenty-two thousand eighty-seven dollars; and in 6980
townships having a budget of more than ten million dollars, 6981
twenty-five thousand five hundred fifty-three dollars; 6982

(7) In calendar years ~~2003~~ 2005 through 2008, the 6983
compensation determined under division (D) of this section for the 6984
immediately preceding calendar year increased by the lesser of the 6985
following: 6986

(a) Three per cent; 6987

(b) The percentage increase, if any, in the consumer price 6988
index over the twelve-month period that ends on the thirtieth day 6989
of September of the immediately preceding calendar year, rounded 6990
to the nearest one-tenth of one per cent; 6991

~~(6)~~(8) In calendar year 2009 and thereafter, the amount 6992
determined under division (D) of this section for calendar year 6993
2008. 6994

As used in this division, "consumer price index" has the same 6995
meaning as in section 325.18 of the Revised Code. 6996

Sec. 511.181. If the board of park commissioners of a 6997
township park district created before 1955 is appointed by the 6998
board of township trustees, the board of township trustees may 6999
adopt a resolution to convert the parks owned and operated by the 7000
park district into parks owned and operated by the township if the 7001
township has a population of less than thirty-five thousand and a 7002
geographical area of less than fifteen square miles. Upon the 7003
adoption of that resolution, the township park district shall 7004
cease to exist, all real and personal property owned by the park 7005

district shall be transferred to the township, and the township 7006
shall assume liability with respect to all contracts and debts of 7007
the park district. All employees of the township park district 7008
whose parks are so converted into township parks shall become 7009
township employees, and the board of township trustees may retain 7010
the former park commissioners, on the terms that the trustees 7011
consider appropriate, to operate the property formerly owned by 7012
the township park district. 7013

The township shall continue to collect any taxes levied 7014
within the former township park district, and the taxes shall be 7015
deposited into the township treasury as funds to be used for the 7016
park purposes for which they were levied. 7017

Within fifteen days after the adoption of a township park 7018
district conversion resolution under this section, the clerk of 7019
the board of township trustees shall certify a copy of that 7020
resolution to the county auditor. 7021

Sec. 715.013. (A) Except as otherwise expressly authorized by 7022
the Revised Code, no municipal corporation shall levy a tax that 7023
is the same as or similar to a tax levied under Chapter 322., 7024
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 7025
5707., 5725., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 7026
5741., 5743., or 5749. of the Revised Code. 7027

(B) This section does not prohibit a municipal corporation 7028
from levying a tax on ~~amounts~~ any of the following: 7029

(1) Amounts received for admission to any place ~~or, on and~~ 7030
~~after January 1, 2002, on the;~~ 7031

(2) The income of an electric company or combined company, as 7032
defined in section 5727.01 of the Revised Code; 7033

(3) On and after January 1, 2004, the income of a telephone 7034
company, as defined in section 5727.01 of the Revised Code. 7035

Sec. 718.01. (A) As used in this chapter:	7036
(1) <u>"Adjusted federal taxable income" means federal taxable</u>	7037
<u>income before net operating losses and special deductions as</u>	7038
<u>determined under the Internal Revenue Code, adjusted as follows:</u>	7039
(a) <u>Deduct intangible income to the extent included in</u>	7040
<u>federal taxable income;</u>	7041
(b) <u>Add expenses incurred in the production of intangible</u>	7042
<u>income;</u>	7043
(c) <u>Add the amounts described in section 5745.042 of the</u>	7044
<u>Revised Code, except that "taxpayer" as used in section 5745.042</u>	7045
<u>of the Revised Code has the same meaning as in this section; and</u>	7046
(d) <u>If the taxpayer is not a C corporation and is not an</u>	7047
<u>individual, the taxpayer shall compute "adjusted federal taxable</u>	7048
<u>income" as if the taxpayer were a C corporation, but with respect</u>	7049
<u>to each owner-employee of the taxpayer, amounts paid or accrued to</u>	7050
<u>a qualified self-employed retirement plan and amounts paid or</u>	7051
<u>accrued to or for health insurance or life insurance shall not be</u>	7052
<u>allowed as a deduction.</u>	7053
<u>Nothing in division (A)(1) of section 718.01 of the Revised</u>	7054
<u>Code shall be construed as allowing the taxpayer to deduct any</u>	7055
<u>amount more than once.</u>	7056
(2) <u>"Internal Revenue Code" means the Internal Revenue Code</u>	7057
<u>of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.</u>	7058
(2) (3) <u>"Schedule C" means internal revenue service schedule C</u>	7059
<u>filed by a taxpayer pursuant to the Internal Revenue Code.</u>	7060
(3) (4) <u>"Form 2106" means internal revenue service form 2106</u>	7061
<u>filed by a taxpayer pursuant to the Internal Revenue Code.</u>	7062
(4) (5) <u>"Intangible income" means income of any of the</u>	7063
<u>following types: income yield, interest, dividends, or other</u>	7064

income arising from the ownership, sale, exchange, or other 7065
disposition of intangible property including, but not limited to, 7066
investments, deposits, money, or credits as those terms are 7067
defined in Chapter 5701. of the Revised Code. 7068

~~(5)~~(6) "S corporation" means a corporation that has made an 7069
election under subchapter S of Chapter 1 of Subtitle A of the 7070
Internal Revenue Code for its taxable year. 7071

(7) For taxable years beginning on or after January 1, 2004, 7072
"net profit" means adjusted federal taxable income calculated on 7073
the basis of the Internal Revenue Code. 7074

(8) "Taxpayer" means a person subject to a tax on income 7075
levied by a municipal corporation. 7076

(9) "Taxable year" means the corresponding tax reporting 7077
period as prescribed for the taxpayer under the Internal Revenue 7078
Code. 7079

(10) "Tax administrator" means the individual charged with 7080
direct responsibility for administration of a tax on income levied 7081
by a municipal corporation. 7082

(B) No municipal corporation ~~with respect to that income that~~ 7083
~~it may tax~~ shall tax ~~such~~ income at other than a uniform rate. 7084

(C) No municipal corporation shall levy a tax on income at a 7085
rate in excess of one per cent without having obtained the 7086
approval of the excess by a majority of the electors of the 7087
municipality voting on the question at a general, primary, or 7088
special election. The legislative authority of the municipal 7089
corporation shall file with the board of elections at least 7090
seventy-five days before the day of the election a copy of the 7091
ordinance together with a resolution specifying the date the 7092
election is to be held and directing the board of elections to 7093
conduct the election. The ballot shall be in the following form: 7094
"Shall the Ordinance providing for a ... per cent levy on income 7095

for (Brief description of the purpose of the proposed levy) be 7096
passed? 7097

FOR THE INCOME TAX 7098

AGAINST THE INCOME TAX" 7099

In the event of an affirmative vote, the proceeds of the levy 7100
may be used only for the specified purpose. 7101

(D)(1) Except as ~~otherwise~~ provided in division ~~(D)(2) or~~ 7102
~~(F)(9)(E)~~ of this section, no municipal corporation shall exempt 7103
from a tax on income, compensation for personal services of 7104
individuals over eighteen years of age or the net profit from a 7105
business or profession. 7106

~~(2) The legislative authority of a municipal corporation may,~~ 7107
~~by ordinance or resolution, exempt from a tax on income any~~ 7108
~~compensation arising from the grant, sale, exchange, or other~~ 7109
~~disposition of a stock option; the exercise of a stock option; or~~ 7110
~~the sale, exchange, or other disposition of stock purchased under~~ 7111
~~a stock option. (a) For taxable years beginning on or after~~ 7112
January 1, 2004, no municipal corporation shall tax the net profit 7113
from a business or profession using any base other than the 7114
taxpayer's adjusted federal taxable income. 7115

(b) Division (D)(2)(a) of this section does not apply to any 7116
taxpayer required to file a return under section 5745.03 of the 7117
Revised Code or to the net profit from a sole proprietorship. 7118

~~(E) Nothing in this section shall prevent~~ Except as provided 7119
in division (D)(2) of this section, a municipal corporation ~~from~~ 7120
~~permitting~~ may permit lawful deductions as prescribed by 7121
ordinance. The legislative authority of a municipal corporation 7122
may, by ordinance or resolution, exempt from a tax on income any 7123
compensation arising from the grant, sale, exchange, or other 7124
disposition of a stock option, the exercise of a stock option, or 7125
the sale, exchange, or other disposition of stock purchased under 7126

a stock option. If ~~a taxpayer's~~ an individual's taxable income 7127
includes income against which the taxpayer has taken a deduction 7128
for federal income tax purposes as reportable on the taxpayer's 7129
form 2106, and against which a like deduction has not been allowed 7130
by the municipal corporation, the municipal corporation shall 7131
deduct from the taxpayer's taxable income an amount equal to the 7132
deduction shown on such form allowable against such income, to the 7133
extent not otherwise so allowed as a deduction by the municipal 7134
corporation. ~~In~~ 7135

In the case of a taxpayer who has a net profit from a 7136
business or profession that is operated as a sole proprietorship, 7137
no municipal corporation may tax or use as the base for 7138
determining the amount of the net profit that shall be considered 7139
as having a taxable situs in the municipal corporation, ~~a greater~~ 7140
~~amount than the net profit reported by the taxpayer on schedule C~~ 7141
~~filed in reference to the year in question as taxable income from~~ 7142
~~such sole proprietorship, except as otherwise specifically~~ 7143
~~provided by ordinance or regulation~~ an amount other than the net 7144
profit required to be reported by the taxpayer on schedule C as 7145
taxable income from such sole proprietorship for the taxable year, 7146
but such amount shall be increased in accordance with the 7147
principles and concepts described in section 5745.042 of the 7148
Revised Code as if the taxpayer were a C corporation. 7149

(F) A municipal corporation shall not tax any of the 7150
following: 7151

(1) The military pay or allowances of members of the armed 7152
forces of the United States and of members of their reserve 7153
components, including the Ohio national guard; 7154

(2) The income of religious, fraternal, charitable, 7155
scientific, literary, or educational institutions to the extent 7156
that such income is derived from tax-exempt real estate, 7157
tax-exempt tangible or intangible property, or tax-exempt 7158

activities;	7159
(3) Except as otherwise provided in division (G) of this section, intangible income;	7160 7161
(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.	7162 7163 7164 7165 7166 7167 7168
(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;	7169 7170 7171 7172 7173 7174 7175 7176 7177
(6) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Revised Code, may be taxed by a municipal corporation <u>may tax the following</u> , subject to Chapter 5745. of the Revised Code:	7178 7179 7180 7181 7182 7183 7184
<u>(a) Beginning January 1, 2002, the income of an electric company or combined company;</u>	7185 7186
<u>(b) Beginning January 1, 2004, the income of a telephone company.</u>	7187 7188
<u>As used in division (F)(6) of this section, "combined</u>	7189

company," "electric company," and "telephone company" have the 7190
same meanings as in section 5727.01 of the Revised Code. 7191

(7) On and after January 1, 2003, items excluded from federal 7192
gross income pursuant to section 107 of the Internal Revenue Code; 7193

(8) On and after January 1, 2001, compensation paid to a 7194
nonresident individual to the extent prohibited under section 7195
718.011 of the Revised Code; 7196

(9) Except as provided in division (H) of this section, an S 7197
corporation shareholder's distributive share of net profits of the 7198
S corporation, other than any part of the distributive share of 7199
net profits that represents wages as defined in section 3121(a) of 7200
the Internal Revenue Code or net earnings from self-employment as 7201
defined in section 1402(a) of the Internal Revenue Code, to the 7202
extent such distributive share would not be allocated or 7203
apportioned to this state under division (B)(1) and (2) of section 7204
5733.05 of the Revised Code if the S corporation were a 7205
corporation subject to the taxes imposed under Chapter 5733. of 7206
the Revised Code. 7207

(G) Any municipal corporation that taxes any type of 7208
intangible income on March 29, 1988, pursuant to Section 3 of 7209
Amended Substitute Senate Bill No. 238 of the 116th general 7210
assembly, may continue to tax that type of income after 1988 if a 7211
majority of the electors of the municipal corporation voting on 7212
the question of whether to permit the taxation of that type of 7213
intangible income after 1988 vote in favor thereof at an election 7214
held on November 8, 1988. 7215

(H) Any municipal corporation that, on December 6, 2002, 7216
taxes an S corporation shareholder's distributive share of net 7217
profits of the S corporation to any greater extent than that 7218
permitted under division (F)(9) of this section may continue after 7219
2002 to tax such distributive shares to such greater extent only 7220

if a majority of the electors of the municipal corporation voting 7221
on the question of such continuation vote in favor thereof at an 7222
election held on November 4, 2003. If a majority of electors vote 7223
in favor of that question, then, for purposes of section 718.14 of 7224
the Revised Code, "pass-through entity" includes S corporations, 7225
"income from a pass-through entity" includes distributive shares 7226
from an S corporation, and "owner" includes a shareholder of an S 7227
corporation, notwithstanding that section to the contrary. 7228

(I) Nothing in this section or section 718.02 of the Revised 7229
Code shall authorize the levy of any tax on income that a 7230
municipal corporation is not authorized to levy under existing 7231
laws or shall require a municipal corporation to allow a deduction 7232
from taxable income for losses incurred from a sole proprietorship 7233
or partnership. 7234

Sec. 718.02. This section does not apply to ~~electric~~ 7235
~~companies or combined companies, or to electric light companies~~ 7236
~~for which an election made under section 5745.031~~ taxpayers that 7237
are subject to and required to file reports under Chapter 5745. of 7238
the Revised Code ~~is in effect.~~ 7239

(A) ~~In the taxation of income that is subject to municipal~~ 7240
~~income taxes, if the books and records of a taxpayer conducting a~~ 7241
~~business or profession both within and without the boundaries of a~~ 7242
~~municipal corporation disclose with reasonable accuracy what~~ 7243
~~portion of its net profit is attributable to that part of the~~ 7244
~~business or profession conducted within the boundaries of the~~ 7245
~~municipal corporation, then only such portion shall be considered~~ 7246
~~as having a taxable situs in such municipal corporation for~~ 7247
~~purposes of municipal income taxation. In the absence of such~~ 7248
~~records, net~~ Net profit from a business or profession conducted 7249
both within and without the boundaries of a municipal corporation 7250
shall be considered as having a taxable situs in such municipal 7251

corporation for purposes of municipal income taxation in the same 7252
proportion as the average ratio of the following: 7253

(1) The average ~~net book value~~ original cost of the real and 7254
tangible personal property owned or used by the taxpayer in the 7255
business or profession in such municipal corporation during the 7256
taxable period to the average ~~net book value~~ original cost of all 7257
of the real and tangible personal property owned or used by the 7258
taxpayer in the business or profession during the same period, 7259
wherever situated. 7260

As used in the preceding paragraph, real property shall 7261
include property rented or leased by the taxpayer and the value of 7262
such property shall be determined by multiplying the annual rental 7263
thereon by eight; 7264

(2) Wages, salaries, and other compensation paid during the 7265
taxable period to persons employed in the business or profession 7266
for services performed in such municipal corporation to wages, 7267
salaries, and other compensation paid during the same period to 7268
persons employed in the business or profession, wherever their 7269
services are performed, excluding compensation that is not taxable 7270
by the municipal corporation under section 718.011 of the Revised 7271
Code; 7272

(3) Gross receipts of the business or profession from sales 7273
made and services performed during the taxable period in such 7274
municipal corporation to gross receipts of the business or 7275
profession during the same period from sales and services, 7276
wherever made or performed. 7277

If the foregoing ~~allocation~~ apportionment formula does not 7278
produce an equitable result, another basis may be substituted, 7279
under uniform regulations, so as to produce an equitable result. 7280
If, for any taxable year, the application of the foregoing 7281
apportionment formula produces an amount less than zero, the 7282

taxpayer shall not be entitled to a refund with respect to that 7283
taxable year of any amounts other than amounts the taxpayer has 7284
paid in estimated taxes for the taxable year and any overpayment 7285
from a previous taxable year credited towards the taxable year for 7286
which the foregoing apportionment formula produces an amount less 7287
than zero. 7288

(B) As used in division (A) of this section, "sales made in a 7289
municipal corporation" mean: 7290

(1) All sales of tangible personal property delivered within 7291
such municipal corporation regardless of where title passes if 7292
shipped or delivered from a stock of goods within such municipal 7293
corporation; 7294

(2) All sales of tangible personal property delivered within 7295
such municipal corporation regardless of where title passes even 7296
though transported from a point outside such municipal corporation 7297
if the taxpayer is regularly engaged through its own employees in 7298
the solicitation or promotion of sales within such municipal 7299
corporation and the sales result from such solicitation or 7300
promotion; 7301

(3) All sales of tangible personal property shipped from a 7302
place within such municipal corporation to purchasers outside such 7303
municipal corporation regardless of where title passes if the 7304
taxpayer is not, through its own employees, regularly engaged in 7305
the solicitation or promotion of sales at the place where delivery 7306
is made. 7307

Sec. 718.021. (A) As used in this section: 7308

(1) "Apportioned net income" means the amount derived from 7309
the application of the apportionment formula described in section 7310
718.02 of the Revised Code. 7311

(2) "Loss-generating taxable year" means a taxable year in 7312

which the taxpayer has negative apportioned net income. 7313

(3) "Negative apportioned net income" means apportioned net 7314
income that is less than zero, except that if, for any taxable 7315
year, a taxpayer was not subject to the income tax imposed by a 7316
municipal corporation or was exempt from that tax, then the 7317
taxpayer's negative apportioned net income with respect to that 7318
municipal corporation is zero for that taxable year. 7319

(4) "Positive apportioned net income" means apportioned net 7320
income greater than zero. 7321

(B)(1) If a taxpayer has negative apportioned net income for 7322
a taxable year beginning on or after January 1, 2004, with respect 7323
to a municipal income tax, then for each of the next five ensuing 7324
taxable years, the taxpayer may reduce any positive apportioned 7325
net income with respect to the municipal corporation in which the 7326
negative apportioned net income was generated by the lesser of: 7327

(a) The positive apportioned net income for that ensuing 7328
taxable year; or 7329

(b) The absolute value of the negative apportioned net income 7330
attributable to the loss-generating taxable year reduced by any 7331
amount the taxpayer was allowed to deduct under this section in 7332
any of the previous taxable years. 7333

(2) If, during a period of five consecutive taxable years, a 7334
taxpayer has negative apportioned net income in more than one 7335
taxable year, the negative apportioned net income generated in the 7336
earliest of those taxable years shall be the first negative 7337
apportioned net income deducted under this section. 7338

(C) Nothing in this section allows any negative apportioned 7339
net income for a taxable year to be deducted more than once in any 7340
subsequent taxable year. 7341

(D) Nothing in this section allows any negative apportioned 7342

net income for a taxable year to be deducted in any subsequent 7343
taxable year beginning more than five years after the beginning of 7344
the loss-generating taxable year. 7345

(E) Nothing in this section denies a taxpayer any net 7346
operating loss deductions for any losses arising in taxable years 7347
beginning before 2004 if such deductions are permitted by a 7348
municipal corporation's ordinance. 7349

Sec. 718.03. (A) As used in this section: 7350

(1) "Other payer" means any person, other than an 7351
individual's employer or the employer's agent, that pays an 7352
individual any item included in the taxable income of the 7353
individual. 7354

(2) "Qualifying wages" means wages, as defined in section 7355
3121 of the Internal Revenue Code, adjusted as follows: 7356

(a) Deduct any amount included in wages to the extent the 7357
amount constitutes compensation attributable to a nonqualified 7358
deferred compensation plan or program described in section 7359
3121(v)(2)(C) of the Internal Revenue Code and is not included in 7360
any person's federal gross income. 7361

(b) Add any amount not included in wages to the extent the 7362
amount constitutes compensation attributable to a nonqualified 7363
deferred compensation plan or program described in section 7364
3121(v)(2)(C) of the Internal Revenue Code if the amount is 7365
included in any person's federal gross income, but only to the 7366
extent the municipal corporation did not impose its tax on that 7367
amount of nonqualified deferred compensation at the time the 7368
compensation was deferred. 7369

(c) Add any amount not included in wages to the extent the 7370
amount has been directly or indirectly paid to or for the benefit 7371
of any employee, payee, or former employee and is excluded from 7372

the employee's, payee's, or former employee's federal gross income 7373
under section 125 of the Internal Revenue Code. 7374

(B) For taxable years beginning after 2003, no municipal 7375
corporation shall require any employer or any agent of any 7376
employer or any other payer, to withhold tax from any compensation 7377
greater than qualifying wages directly or indirectly paid to or 7378
for the benefit of any employee or payee or former employee. 7379
Nothing in this section prohibits an employer from withholding 7380
amounts on a basis greater than qualifying wages. 7381

(C)(1) The failure of an employer to withhold tax as required 7382
by a municipal corporation does not relieve an employee from 7383
liability for the tax. 7384

(2) The failure of an employer to remit to the municipal 7385
corporation the tax withheld relieves the employee from liability 7386
for that tax unless the employee colluded with the employer to 7387
fail to remit the tax withheld. 7388

(D) The exemption of compensation from withholding under this 7389
section does not exempt that compensation from taxation as 7390
otherwise provided by law. 7391

Sec. 718.031. The tax administrator may require each 7392
employer, on or before the last day of February of each year, to 7393
notify the administrator of the name, address, and social security 7394
number of each employee for whom the employer deferred 7395
compensation, other than qualified deferred compensation, during 7396
the previous calendar year. The notification shall also include 7397
the amount so deferred for each employee. 7398

Sec. 718.05. (A) As used in this section: 7399

(1) "Generic form" means an electronic or paper form designed 7400
for reporting estimated municipal income taxes and annual 7401
municipal income tax liability or for filing a refund claim that 7402

is not prescribed by a particular municipal corporation for the 7403
reporting of that municipal corporation's tax on income. 7404

(2) "Return preparer" means any person other than a taxpayer 7405
that is authorized by a taxpayer to complete or file an income tax 7406
return, report, or other document for or on behalf of the 7407
taxpayer. 7408

(B) A municipal corporation shall not require a taxpayer to 7409
file an annual income tax return or report prior to the filing 7410
date for the corresponding tax reporting period as prescribed for 7411
such a taxpayer under the Internal Revenue Code. For taxable years 7412
beginning after 2003, except as otherwise provided in section 7413
718.051 of the Revised Code and division (D) of this section, a 7414
municipal corporation shall not require a taxpayer to file an 7415
annual income tax return or report on any date other than the 7416
fifteenth day of the fourth month following the end of the 7417
taxpayer's taxable year. 7418

(C) On and after January 1, 2001, any municipal corporation 7419
that requires taxpayers to file income tax returns, reports, or 7420
other documents shall accept for filing a generic form of such a 7421
return, report, or document if the generic form, once completed 7422
and filed, contains all of the information required to be 7423
submitted with the municipal corporation's prescribed returns, 7424
reports, or documents, and if the taxpayer or return preparer 7425
filing the generic form otherwise complies with rules or 7426
ordinances of the municipal corporation governing the filing of 7427
returns, reports, or documents. 7428

(D) ~~Beginning~~ Except as otherwise provided in section 718.051 7429
of the Revised Code, beginning January 1, 2001, any taxpayer that 7430
has requested an extension for filing a federal income tax return 7431
may request an extension for the filing of a municipal income tax 7432
return. The taxpayer shall make the request by filing a copy of 7433
the taxpayer's request for a federal filing extension with the 7434

individual or office charged with the administration of the 7435
municipal income tax. The request for extension shall be filed not 7436
later than the last day for filing the municipal income tax return 7437
as prescribed by ordinance or rule of the municipal corporation. A 7438
municipal corporation shall grant such a request for extension 7439
filed before January 1, 2004, for a period not less than the 7440
period of the federal extension request. For taxable years 7441
beginning after 2003, the extended due date of the municipal 7442
income tax return shall be the last day of the month to which the 7443
due date of the federal income tax return has been extended. A 7444
municipal corporation may deny a taxpayer's request for extension 7445
only if the taxpayer fails to timely file the request, fails to 7446
file a copy of the request for the federal extension, owes the 7447
municipal corporation any delinquent income tax or any penalty, 7448
interest, assessment, or other charge for the late payment or 7449
nonpayment of income tax, or has failed to file any required 7450
income tax return, report, or other related document for a prior 7451
tax period. The granting of an extension for filing a municipal 7452
corporation income tax return does not extend the last date for 7453
paying the tax without penalty unless the municipal corporation 7454
grants an extension of that date. 7455

Sec. 718.051. (A) As used in this section, "Ohio business 7456
gateway" means the online computer network system, initially 7457
created by the department of administrative services under section 7458
125.30 of the Revised Code, that allows private businesses to 7459
electronically file business reply forms with state agencies. 7460

(B) Notwithstanding section 718.05 of the Revised Code, on 7461
and after January 1, 2005, any taxpayer that is subject to any 7462
municipal corporation's tax on the net profit from a business or 7463
profession and has received an extension to file the federal 7464
income tax return shall not be required to notify the municipal 7465
corporation of the federal extension and shall not be required to 7466

file any municipal income tax return until the last day of the 7467
month to which the due date for filing the federal return has been 7468
extended, provided that, on or before the date for filing the 7469
municipal income tax return, the person notifies the tax 7470
commissioner of the federal extension through the Ohio business 7471
gateway or any successor electronic filing and payment system. 7472

(C) For taxable years beginning on or after January 1, 2005, 7473
a taxpayer subject to any municipal corporation's tax on the net 7474
profit from a business or profession may file any municipal income 7475
tax return or estimated municipal income return, and may make 7476
payment of amounts shown to be due on such returns, by using the 7477
Ohio business gateway or any successor electronic filing and 7478
payment system. 7479

(D)(1) As used in this division, "qualifying wages" has the 7480
same meaning as in section 718.03 of the Revised Code. 7481

(2) Any employer may report the amount of municipal income 7482
tax withheld from qualifying wages paid on or after January 1, 7483
2007, and may make remittance of such amounts, by using the Ohio 7484
business gateway or any successor electronic filing and payment 7485
system. 7486

(E) Nothing in this section affects the due dates for filing 7487
income tax returns or employer withholding tax returns or for 7488
paying any amounts shown to be due on such returns. 7489

(F) No municipal corporation shall be required to pay any fee 7490
or charge for the operation or maintenance of the Ohio business 7491
gateway. 7492

(G) The use of the Ohio business gateway by municipal 7493
corporations, taxpayers, or other persons pursuant to this section 7494
does not affect the legal rights of municipalities or taxpayers as 7495
otherwise permitted by law. This state shall not be a party to the 7496
administration of municipal income taxes or to an appeal of a 7497

municipal income tax matter, except as otherwise specifically 7498
provided by law. 7499

~~Sec. 718.11. As used in this section, "tax administrator"~~ 7500
~~means the individual charged with direct responsibility for~~ 7501
~~administration of a tax levied by a municipal corporation on~~ 7502
~~income.~~ 7503

~~Not later than one hundred eighty days after the effective~~ 7504
~~date of this section, the~~ The legislative authority of each 7505
municipal corporation that imposes a tax on income ~~on that~~ 7506
~~effective date shall establish by ordinance~~ maintain a board to 7507
hear appeals as provided in this section. The legislative 7508
authority of any municipal corporation that does not impose a tax 7509
on income on the effective date of this ~~section~~ amendment, but 7510
that imposes such a tax after that date, shall establish such a 7511
board by ordinance not later than one hundred eighty days after 7512
the tax takes effect. 7513

Whenever a tax administrator issues a decision regarding a 7514
municipal income tax obligation that is subject to appeal as 7515
provided in this section or in an ordinance or regulation of the 7516
municipal corporation, the tax administrator shall notify the 7517
taxpayer in writing at the same time of the taxpayer's right to 7518
appeal the decision and of the manner in which the taxpayer may 7519
appeal the decision. 7520

Any person who is aggrieved by a decision by the tax 7521
administrator and who has filed with the municipal corporation the 7522
required returns or other documents pertaining to the municipal 7523
income tax obligation at issue in the decision may appeal the 7524
decision to the board created pursuant to this section by filing a 7525
request with the board. The request shall be in writing, shall 7526
state why the decision should be deemed incorrect or unlawful, and 7527
shall be filed within thirty days after the tax administrator 7528

issues the decision complained of. 7529

The board shall schedule a hearing within forty-five days 7530
after receiving the request, unless the taxpayer waives a hearing. 7531
If the taxpayer does not waive the hearing, the taxpayer may 7532
appear before the board and may be represented by an attorney at 7533
law, certified public accountant, or other representative. 7534

The board may affirm, reverse, or modify the tax 7535
administrator's decision or any part of that decision. The board 7536
shall issue a final decision on the appeal within ninety days 7537
after the board's final hearing on the appeal, and send ~~notice~~ a 7538
copy of its final decision by ordinary mail to the petitioner 7539
within fifteen days after issuing the decision. The taxpayer may
appeal the board's decision to the board of tax appeals as 7540
provided in section 5717.011 of the Revised Code. 7541
7542

Each board of appeal created pursuant to this section shall 7543
adopt rules governing its procedures and shall keep a record of 7544
its transactions. Such records are not public records available 7545
for inspection under section 149.43 of the Revised Code. Hearings 7546
requested by a taxpayer before a board of appeal created pursuant 7547
to this section are not meetings of a public body subject to 7548
section 121.22 of the Revised Code. 7549

Sec. 718.121. (A) If tax or withholding is erroneously paid 7550
to a municipal corporation on income or wages, and if another 7551
municipal corporation imposes a tax on that income or wages after 7552
the time period allowed for a refund of the tax or withholding 7553
paid to the first municipal corporation, the second municipal 7554
corporation shall allow a nonrefundable credit, against the tax or 7555
withholding the second municipality claims is due, equal to the 7556
tax or withholding paid to the first municipal corporation. 7557

(B) If tax or withholding was paid to a municipal corporation 7558
on nonqualified deferred compensation for a previous taxable year 7559

in which the compensation was deferred, and if another municipal 7560
corporation imposes tax for the current taxable year on the 7561
compensation when it is paid in that current taxable year, then 7562
the second municipal corporation shall allow a credit for the tax 7563
paid to the first municipal corporation to the same extent that 7564
the second municipal corporation would allow a credit if the tax 7565
had been paid to the first municipal corporation in the current 7566
taxable year. 7567

Sec. 753.22. (A) The director of public safety or the joint 7568
board established pursuant to section 753.15 of the Revised Code 7569
may establish a commissary for the workhouse. The commissary may 7570
be established either in-house or by another arrangement. If a 7571
commissary is established, all persons incarcerated in the 7572
workhouse shall receive commissary privileges. A person's 7573
purchases from the commissary shall be deducted from the person's 7574
account record in the workhouse's business office. The commissary 7575
shall provide for the distribution to indigent persons 7576
incarcerated in the workhouse necessary hygiene articles and 7577
writing materials. 7578

(B) If a commissary is established, the director of public 7579
safety or the joint board established pursuant to section 753.15 7580
of the Revised Code shall establish a commissary fund for the 7581
workhouse. The management of funds in the commissary fund shall be 7582
strictly controlled in accordance with procedures adopted by the 7583
auditor of state. Commissary fund revenue over and above operating 7584
costs and reserve shall be considered profits. All profits from 7585
the commissary fund shall be used to purchase supplies and 7586
equipment for the benefit of persons incarcerated in the workhouse 7587
and to pay salary and benefits for employees of the workhouse, or 7588
for any other persons, who work in or are employed for the sole 7589
purpose of providing service to the commissary. The director of 7590
public safety or the joint board established pursuant to section 7591

753.15 of the Revised Code shall adopt rules and regulations for 7592
the operation of any commissary fund the director or the joint 7593
board establishes. 7594

Sec. 901.17. ~~(A)~~ The division of markets ~~shall~~ may do all of 7595
the following: 7596

~~(1)~~(A) Investigate the cost of production and marketing in 7597
all its phases; 7598

~~(2)~~(B) Gather and disseminate information concerning supply, 7599
demand, prevailing prices, and commercial movements, including 7600
common and cold storage of food products, and maintain market news 7601
service for disseminating such information; 7602

~~(3)~~(C) Promote, assist, and encourage the organization and 7603
operation of cooperative and other associations and organizations 7604
for improving the relations and services among producers, 7605
distributors, and consumers of food products; 7606

~~(4)~~(D) Investigate the practice, methods, and any specific 7607
transaction of commission merchants and others who receive, 7608
solicit, buy, or handle on commission or otherwise, food products; 7609

~~(5)~~(E) Act as mediator or arbitrator, when invited, in any 7610
controversy or issue that arises between producers and 7611
distributors and that affects the interest of the consumer; 7612

~~(6)~~(F) Act on behalf of the consumers in conserving and 7613
protecting their interests in every practicable way against 7614
excessive prices; 7615

~~(7)~~(G) Act as market adviser for producers and distributors, 7616
assisting them in economical and efficient distribution of good 7617
products at fair prices; 7618

~~(8)~~(H) Encourage the establishment of retail municipal 7619
markets and develop direct dealing between producers and 7620
consumers; 7621

~~(9)(I) Encourage the consumption of Ohio-grown products 7622
within the state, nationally, and internationally, and inspect and 7623
determine the grade and condition of farm produce, both at 7624
collecting and receiving centers within the state; 7625~~

~~(10)(J) Take such means and use such powers, relative to 7626
shipment, transportation, and storage of foodstuffs of any kind, 7627
as are necessary, advisable, or desirable in case of an emergency 7628
creating or threatening to create a scarcity of food within the 7629
state; 7630~~

~~(K) Participate in trade missions between states and foreign 7631
countries in order to encourage the sale and promotion of 7632
Ohio-grown products. 7633~~

~~(B)(1) The director of agriculture shall adopt and may amend 7634
schedules of fees to be charged for inspecting farm produce at 7635
collecting and receiving centers or such other services as may be 7636
rendered under this section. All such fees shall be made with a 7637
view to the minimum cost and to make this branch of the department 7638
of agriculture self-sustaining. 7639~~

~~The fees shall be deposited in the state treasury and 7640
credited to the inspection fund, which is hereby created, for use 7641
in carrying out the purposes of this section. All investment 7642
earnings of the inspection fund shall be credited to the fund. If, 7643
in any year, the balance in the inspection fund is not sufficient 7644
to meet the expenses incurred pursuant to this section, the 7645
deficit shall be paid from funds appropriated for the use of the 7646
department. 7647~~

~~(2) The director may adopt a schedule of fees to be charged 7648
for inspecting any agricultural product for the purposes of the 7649
issuance of an export certificate, as may be required by the 7650
United States department of agriculture or foreign purchasers. 7651
Such fees shall be credited to the general revenue fund. 7652~~

Sec. 901.21. (A) As used in this section and section 901.22 7653
of the Revised Code: 7654

(1) "Agricultural easement" has the same meaning as in 7655
section 5301.67 of the Revised Code. 7656

(2) "Agriculture" means those activities occurring on land 7657
devoted exclusively to agricultural use, as defined in section 7658
5713.30 of the Revised Code, or on land that constitutes a 7659
homestead. 7660

(3) "Homestead" means the portion of a farm on which is 7661
located a dwelling house, yard, or outbuildings such as a barn or 7662
garage. 7663

(B) The director of agriculture may acquire real property 7664
used predominantly in agriculture and agricultural easements by 7665
gift, devise, or bequest if, at the time an easement is granted, 7666
such an easement is on land that is valued for purposes of real 7667
property taxation at its current value for agricultural use under 7668
section 5713.31 of the Revised Code or that constitutes a 7669
homestead. Any terms may be included in an agricultural easement 7670
so acquired that are necessary or appropriate to preserve on 7671
behalf of the grantor of the easement the favorable tax 7672
consequences of the gift, devise, or bequest under the "Internal 7673
Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 7674
The director, by any such means or by purchase or lease, may 7675
acquire, or acquire the use of, stationary personal property or 7676
equipment that is located on land acquired in fee by the director 7677
under this section and that is necessary or appropriate for the 7678
use of the land predominantly in agriculture. 7679

(C) The director may do all things necessary or appropriate 7680
to retain the use of real property acquired in fee under division 7681
(B) of this section predominantly in agriculture, including, 7682

without limitation, performing any of the activities described in 7683
division (A)(1) or (2) of section 5713.30 of the Revised Code or 7684
entering into contracts to lease or rent the real property so 7685
acquired to persons or governmental entities that will use the 7686
land predominantly in agriculture. 7687

(D)(1) When the director considers it to be necessary or 7688
appropriate, the director may sell real property acquired in fee, 7689
and stationary personal property or equipment acquired by gift, 7690
devise, bequest, or purchase, under division (B) of this section 7691
on such terms as the director considers to be advantageous to this 7692
state. 7693

(2) An agricultural easement acquired under division (B) of 7694
this section may be extinguished under the circumstances 7695
prescribed, and in accordance with the terms and conditions set 7696
forth, in the instrument conveying the agricultural easement. 7697

(E) There is hereby created in the state treasury the 7698
agricultural easement purchase fund. The fund shall consist of the 7699
proceeds received from the sale of real and personal property 7700
under division (D) of this section; moneys received due to the 7701
extinguishment of agricultural easements acquired by the director 7702
under division (B) of this section or section 5301.691 of the 7703
Revised Code; moneys received due to the extinguishment of 7704
agricultural easements purchased with the assistance of matching 7705
grants made under section 901.22 of the Revised Code; gifts, 7706
bequests, devises, and contributions received by the director for 7707
the purpose of acquiring agricultural easements; and grants 7708
received from public or private sources for the purpose of 7709
purchasing agricultural easements. The fund shall be administered 7710
by the director, and moneys in the fund shall be used by the 7711
director exclusively to purchase agricultural easements under 7712
division (A) of section 5301.691 of the Revised Code and provide 7713
matching grants under section 901.22 of the Revised Code to 7714

municipal corporations, counties, townships, and charitable 7715
organizations for the purchase of agricultural easements. Money in 7716
the fund shall be used only to purchase agricultural easements on 7717
land that is valued for purposes of real property taxation at its 7718
current value for agricultural use under section 5713.31 of the 7719
Revised Code or that constitutes a homestead when the easement is 7720
purchased. 7721

(F) There is hereby created in the state treasury the clean 7722
Ohio agricultural easement fund. Twelve and one-half per cent of 7723
net proceeds of obligations issued and sold pursuant to sections 7724
151.01 and 151.09 of the Revised Code shall be deposited into the 7725
fund. The fund shall be used by the director for the purposes of 7726
sections 901.21 and 901.22 and the provisions of sections 5301.67 7727
to 5301.70 of the Revised Code governing agricultural easements. 7728
Investment earnings of the fund shall be credited to the fund. ~~For~~ 7729
~~two years after the effective date of this amendment, investment~~ 7730
~~earnings credited to the fund~~ and may be used to pay costs 7731
incurred by the director in administering those sections and 7732
provisions. 7733

(G) The term of an agricultural easement purchased wholly or 7734
in part with money from the clean Ohio agricultural easement fund 7735
or the agricultural easement purchase fund shall be perpetual and 7736
shall run with the land. 7737

Sec. 921.151. The pesticide program fund is hereby created in 7738
the state treasury. ~~All~~ The portion of the money in the fund that 7739
is collected under this chapter shall be used to carry out the 7740
purposes of this chapter. The portion of the money in the fund 7741
that is collected under section 927.53 of the Revised Code shall 7742
be used to carry out the purposes specified in that section, the 7743
portion of the money in the fund that is collected under section 7744
927.69 of the Revised Code shall be used to carry out the purposes 7745

specified in that section, and the portion of the money in the 7746
fund that is collected under section 927.701 of the Revised Code 7747
shall be used to carry out the purposes of that section. The fund 7748
shall consist of fees collected under sections 921.01 to 921.15 7749
and section 927.69 of the Revised Code, money collected under 7750
section 927.701 of the Revised Code, and all fines, penalties, 7751
costs, and damages, except court costs, ~~which that~~ are collected 7752
by either the director of agriculture or the attorney general in 7753
consequence of any violation of sections 921.01 to 921.29 of the 7754
Revised Code. Not later than the thirtieth day of June of each 7755
year, the director of budget and management shall determine 7756
whether the amount credited to the pesticide program fund under 7757
this chapter is in excess of the amount necessary to meet the 7758
expenses of the director of agriculture in administering this 7759
chapter and shall transfer any such excess from the pesticide 7760
program fund to the general revenue fund. 7761

Sec. 927.53. (A) Each collector or dealer who sells, offers, 7762
or exposes for sale, or distributes nursery stock within this 7763
state, or ships nursery stock to other states, shall pay an annual 7764
license fee of fifty dollars to the director of agriculture for 7765
each place of business ~~he~~ the collector or dealer operates. 7766

(B)(1) Each dealer shall furnish the director, annually, an 7767
affidavit that ~~he~~ the dealer will buy and sell only nursery stock 7768
which has been inspected and certified by an official state or 7769
federal inspector. 7770

(2) Each dealer's license expires on the thirty-first day of 7771
December of each year. Each licensed dealer shall apply for 7772
renewal of ~~his~~ the dealer's license prior to the first day of 7773
January of each year and in accordance with the standard renewal 7774
procedure of sections 4745.01 to 4745.03 of the Revised Code. 7775

(C) Each licensed ~~nurseryman~~ nurseryperson shall post 7776

conspicuously in ~~his~~ the nurseryperson's principal place of 7777
business, the certificate which is issued to ~~him~~ the nurseryperson 7778
in accordance with section 927.61 of the Revised Code. 7779

(D) Each licensed ~~nurseryman~~ nurseryperson, or dealer, shall 7780
post conspicuously in each place of business, each certificate or 7781
license which is issued to ~~him~~ the nurseryperson or dealer in 7782
compliance with this section or section 927.61 of the Revised 7783
Code. 7784

(E)(1) Each ~~nurseryman~~ nurseryperson who produces, sells, 7785
offers for sale, or distributes woody nursery stock within the 7786
state, or ships woody nursery stock to other states, shall pay to 7787
the director an annual inspection fee of fifty dollars plus four 7788
dollars per acre, or fraction thereof, of growing nursery stock in 7789
intensive production areas and two dollars per acre, or fraction 7790
thereof, of growing nursery stock in nonintensive production 7791
areas, as applicable. 7792

(2) Each ~~nurseryman~~ nurseryperson who limits ~~his~~ production 7793
and sales of nursery stock to brambles, herbaceous, perennial, and 7794
other nonwoody plants, shall pay to the director an inspection fee 7795
of thirty dollars, plus four dollars per acre, or fraction 7796
thereof, of growing nursery stock in intensive and nonintensive 7797
production areas. 7798

(F) On and after the effective date of this amendment, the 7799
following additional fees shall be assessed: 7800

(1) Each collector or dealer who pays a fee under division 7801
(A) of this section shall pay an additional fee of twenty-five 7802
dollars. 7803

(2) Each nurseryperson who pays fees under division (E)(1) of 7804
this section shall pay additional fees as follows: 7805

(a) Fifteen dollars for the inspection fee; 7806

(b) Fifty cents per acre, or fraction thereof, of growing nursery stock in intensive production areas; 7807
7808

(c) One dollar and fifty cents per acre, or fraction thereof, of growing nursery stock in nonintensive production areas. 7809
7810

(3) Each nursery person who pays fees under division (E)(2) of this section shall pay additional fees as follows: 7811
7812

(a) Thirty-five dollars for the inspection fee; 7813

(b) Fifty cents per acre, or fraction thereof, of growing stock in intensive and nonintensive production areas. 7814
7815

The fees collected under division (F) of this section shall be deposited into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Moneys so credited to the fund shall be used to pay the costs incurred by the department of agriculture in employing a minimum of two additional inspectors. 7816
7817
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Sec. 927.69. To effect the purpose of sections 927.51 to 7822
927.74, ~~inclusive,~~ of the Revised Code, the director of 7823
agriculture, or ~~his~~ the director's authorized representative, may: 7824

(A) Make reasonable inspection of any premises in this state 7825
and any property therein or thereon; 7826

(B) Stop and inspect in a reasonable manner, any means of 7827
conveyance moving within this state upon probable cause to believe 7828
it contains or carries any pest, host, commodity, or other article 7829
~~which~~ that is subject to sections 927.51 to 927.72, ~~inclusive,~~ of 7830
the Revised Code; 7831

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such 7832
7833
7834
7835

an inspection, the director or the director's authorized 7836
representative determines that an agricultural product is not 7837
infested, the director or the director's authorized representative 7838
may issue a certificate, as required by other states, the United 7839
States department of agriculture, other federal agencies, or 7840
foreign countries, indicating that the product is not infested. 7841

If the director charges fees for any of the certificates, 7842
agreements, or inspections specified in this division, the fees 7843
shall be as follows: 7844

(1) Phyto sanitary certificates, twenty-five dollars; 7845

(2) Compliance agreements, twenty dollars; 7846

(3) Solid wood packing certificates, twenty dollars; 7847

(4) Vegetable, fruit, and field crop inspections, sixty-five 7848
dollars. 7849

The director may adopt rules under section 927.52 of the 7850
Revised Code that define the certificates, agreements, and 7851
inspections. 7852

The fees shall be deposited into the state treasury to the 7853
credit of the pesticide program fund created in Chapter 921. of 7854
the Revised Code. Money credited to the fund shall be used to pay 7855
the costs incurred by the department of agriculture in employing a 7856
minimum of two additional inspectors. 7857

Sec. 927.701. (A) As used in this section, "gypsy moth" means 7858
the live insect, Lymantria dispar, in any stage of development. 7859

(B) The director of agriculture may establish a voluntary 7861
gypsy moth suppression program under which a landowner may request 7862
that the department of agriculture have the landowner's property 7863
aerially sprayed to suppress the presence of gypsy moths in 7864
exchange for payment from the landowner of a portion of the cost 7865

of the spraying. To determine the amount of payment that is due 7866
from a landowner, the department first shall determine the 7867
projected cost per acre to the department of gypsy moth 7868
suppression activities for the year in which the landowner's 7869
request is made. The cost shall be calculated by determining the 7870
total expense of aerial spraying for gypsy moths to be incurred by 7871
the department in that year divided by the total number of acres 7872
proposed to be sprayed in that year. With respect to a landowner, 7873
the department shall multiply the cost per acre by the number of 7874
acres that the landowner requests to be sprayed. The department 7875
shall add to that amount any administrative costs that it incurs 7876
in billing the landowner and collecting payment. The amount that 7877
the landowner shall pay to the department shall not exceed fifty 7878
per cent of the resulting amount. 7879

(C) The director shall adopt rules under Chapter 119. of the 7880
Revised Code to establish procedures under which a landowner may 7881
make a request under division (B) of this section and to establish 7882
provisions governing agreements between the department and 7883
landowners concerning gypsy moth suppression together with any 7884
other provisions that the director considers appropriate to 7885
administer this section. 7886

(D) The director shall deposit all money collected under this 7887
section into the state treasury to the credit of the pesticide 7888
program fund created in Chapter 921. of the Revised Code. Money 7889
credited to the fund under this section shall be used for the 7890
suppression of gypsy moths in accordance with this section. 7891

"Sec. 1306.20. (A) Subject to section 1306.11 and to sections 7892
1306.25 to 1306.29 of the Revised Code, each state agency shall 7893
determine if, and the extent to which, it will send and receive 7894
electronic records and electronic signatures to and from other 7895
persons and otherwise create, generate, communicate, store, 7896

process, use, and rely upon electronic records and electronic signatures. 7897
7898

(B)(1) Subject to division (B)(2) of this section, a state agency may waive a requirement in the Revised Code, other than a requirement in sections 1306.01 to 1306.15 of the Revised Code, that relates to any of the following: 7899
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7901
7902

(a) The method of posting or displaying records; 7903

(b) The manner of sending, communicating, or transmitting records; 7904
7905

(c) The manner of formatting records. 7906

(2) A state agency may exercise its authority to waive a requirement under division (B)(1) of this section only if the following apply: 7907
7908
7909

(a) The requirement relates to a matter over which the state agency has jurisdiction. 7910
7911

(b) The waiver is consistent with criteria set forth in rules adopted by the state agency. The criteria, to the extent reasonable under the circumstances, shall contain standards to facilitate the use of electronic commerce by persons under the jurisdiction of the state agency consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code. 7912
7913
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(C) If a state agency creates, uses, receives, or retains electronic records, both of the following apply: 7919
7920

(1) Any rules adopted by a state agency relating to electronic records shall be consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code. 7921
7922
7923
7924

(2) Each state agency shall create, use, receive, and retain electronic records in accordance with section 149.40 of the 7925
7926

Revised Code. 7927

(D) If a state agency creates, uses, or receives electronic 7928
signatures, the state agency shall create, use, or receive the 7929
signatures in accordance with rules adopted by the department of 7930
administrative services pursuant to division (A) of section 7931
1306.21 of the Revised Code. 7932

(E)(1) To the extent a state agency retains an electronic 7933
record, the state agency may retain a record in a format that is 7934
different from the format in which the record was originally 7935
created, used, sent, or received only if it can be demonstrated 7936
that the alternative format used accurately and completely 7937
reflects the record as it was originally created, used, sent, or 7938
received. 7939

(2) If a state agency in retaining any set of electronic 7940
records pursuant to division (E)(1) of this section alters the 7941
format of the records, the state agency shall create a certificate 7942
of authenticity for each set of records that is altered. 7943

(3) The department of administrative services, in 7944
consultation with the state archivist, shall adopt rules in 7945
accordance with section 111.15 of the Revised Code that establish 7946
the methods for creating certificates of authenticity pursuant to 7947
division (E)(2) of this section. 7948

(F) Whenever any rule of law requires or authorizes the 7949
filing of any information, notice, lien, or other document or 7950
record with any state agency, a filing made by an electronic 7951
record shall have the same force and effect as a filing made on 7952
paper in all cases where the state agency has authorized or agreed 7953
to such electronic filing and the filing is made in accordance 7954
with applicable rules or agreement. 7955

(G) Nothing in sections 1306.01 to 1306.23 of the Revised 7956
Code shall be construed to require any state agency to use or 7957

permit the use of electronic records and electronic signatures. 7958

(H)(1) Notwithstanding division (C)(1) or (D) of this 7959
section, any state agency that, prior to ~~the effective date of~~ 7960
~~this section~~ September 14, 2000, used or permitted the use of 7961
electronic records or electronic signatures pursuant to laws 7962
enacted, rules adopted, or agency policies adopted before ~~the~~ 7963
~~effective date of this section~~ September 14, 2000, may use or 7964
permit the use of electronic records or electronic signatures 7965
pursuant to those previously enacted laws, adopted rules, or 7966
adopted policies for a period of two years after ~~the effective~~ 7967
~~date of this section~~ September 14, 2000. 7968

(2) Subject to division (H)(3) of this section, after the 7969
two-year period described in division (H)(1) of this section has 7970
concluded, all state agencies that use or permit the use of 7971
electronic records or electronic signatures before ~~the effective~~ 7972
~~date of this section~~ September 14, 2000, shall only use or permit 7973
the use of electronic records or electronic signatures consistent 7974
with rules adopted by the department of administrative services 7975
pursuant to division (A) of section 1306.21 of the Revised Code. 7976

(3) After the two-year period described in division (H)(1) of 7977
this section has concluded, the department of administrative 7978
services may permit a state agency to use electronic records or 7979
electronic signatures that do not comply with division (H)(2) of 7980
this section, if the state agency files a written request with the 7981
department. 7982

(I) For the purposes of this section, "state agency" means 7983
every organized body, office, or agency established by the laws of 7984
the state for the exercise of any function of state government, 7985
but does not include the general assembly, any legislative agency, 7986
the supreme court, the other courts of record in this state, or 7987
any judicial agency. 7988

Sec. 1306.25. As used in sections 1306.25 to 1306.29 of the 7989
Revised Code: 7990

(A) "Commercial activity" means performing services or 7991
providing goods that normally can be obtained from a private 7992
enterprise. 7993

(B) "Direct costs" means all costs, whether capital costs, 7994
operating costs, or otherwise, that would be eliminated if the 7995
service or function to which the costs relate is discontinued. 7996

(C) "Electronic commerce services" means services relating to 7997
commercial activity that are the same as, similar to, or overlap 7998
information technology-based services provided to the public by 7999
two or more competing private enterprises. "Electronic commerce 8000
services" includes services made in connection with a transaction 8001
completed over a computer network, such as the buying of goods or 8002
services over the internet. 8003

(D) "Full cost accounting" means, in accordance with 8004
generally accepted accounting principles, accounting for all 8005
direct costs and indirect costs, including capital costs, that are 8006
incurred in the ownership, management, or operation of electronic 8007
commerce services. 8008

(E) "Government agency" means either of the following: 8009

(1) A state agency as defined in section 117.01 of the 8010
Revised Code or a similar agency of a county, township, municipal 8011
corporation, or other political subdivision of this state, but 8012
does not include the general assembly, any legislative agency, the 8013
supreme court, any court of record in the state, or any judicial 8014
agency; 8015

(2) Any entity that is not majority-owned as private property 8016
and is established by law or by order or action of a state agency 8017
or similar agency of a county, township, municipal corporation, or 8018

other political subdivision, or an officer of that state or 8019
similar agency, but does not include an entity established by the 8020
general assembly, any legislative agency, the supreme court, any 8021
court of record in the state, or any judicial agency. 8022

(F) "Indirect costs" means all costs, whether capital costs, 8023
operating costs, or otherwise, that are not direct costs. 8024

(G) "Private enterprise" means an individual, firm, 8025
partnership, joint venture, corporation, association, or other 8026
legal entity engaging, in the private sector, in the 8027
manufacturing, processing, sale, offering for sale, rental, 8028
leasing, delivery, dispensing, distributing, or advertising of 8029
goods or services for profit. 8030

Sec. 1306.26. (A) The general assembly finds and declares 8031
that the growth of private enterprises is essential to the health, 8032
welfare, and prosperity of this state, and that government 8033
competes with the private sector when it provides goods and 8034
services to the public. 8035

(B) It is the intent of the general assembly and the purpose 8036
of sections 1306.25 to 1306.29 of the Revised Code to protect 8037
economic opportunities for private industry against unfair 8038
competition by government agencies and to enhance the efficient 8039
provision of public goods and services. 8040

(C) Sections 1306.25 to 1306.29 of the Revised Code may be 8041
cited as the "electronic government services act." 8042

Sec. 1306.27. (A) Except as provided in section 1306.28 of 8043
the Revised Code, if two or more competing private enterprises 8044
provide electronic commerce services, a government agency shall 8045
not engage, through the expenditure of public moneys, in any 8046
activity to provide or offer those electronic commerce services to 8047
the public or expand similar electronic commerce services to the 8048

public. 8049

(B) Any provider of electronic commerce services that resides 8050
or does business in this state has standing to bring a cause of 8051
action for appropriate relief in a court of competent jurisdiction 8052
challenging the provision of electronic commerce services by a 8053
government agency not made in accordance with sections 1306.25 to 8054
1306.29 of the Revised Code. 8055

(C) Nothing in sections 1306.25 to 1306.29 of the Revised 8056
Code prohibits a government agency from providing electronic 8057
commerce services to the public in the absence of two or more 8058
competing private enterprises providing those services. 8059

(D) This section and section 1306.28 of the Revised Code do 8060
not apply to any county, township, municipal corporation, or other 8061
political subdivision of the state that has expended public funds 8062
for the construction, deployment, or operation of a fiber optic 8063
network for a public purpose before the effective date of this 8064
section. 8065

Sec. 1306.28. (A) A government agency may provide duplicative 8066
or competing electronic commerce services to the public if the 8067
agency complies with this section. 8068

(B)(1) Before a government agency provides duplicative or 8069
competing electronic commerce services to the public, the 8070
government agency shall hold a public hearing to allow public 8071
comment about the agency's proposed electronic commerce services. 8072

(2) The government agency shall provide at least thirty days' 8073
public notice of the time and place of the public hearing 8074
described in division (B)(1) of this section in one or more 8075
newspapers of general circulation in the county or counties within 8076
the jurisdiction of the government agency. During the thirty-day 8077
period before the public hearing, the government agency shall make 8078

its proposal for providing duplicative or competing electronic 8079
commerce services to the public available for public inspection in 8080
a prominent public location within the county or counties where 8081
the public notice described in this division is provided. 8082

(C) The public notice described in division (B) of this 8083
section also shall set forth all of the following: 8084

(1) The government agency's proposed findings of fact and 8085
conclusions of law describing the reasons why it believes it is 8086
necessary and in the public interest to provide duplicative or 8087
competing electronic commerce services to the public and citing 8088
the legal authority that permits the government agency to do so; 8089

(2) The initial and total lifecycle costs of the proposed 8090
duplicative or competing electronic commerce services, which 8091
include, but are not limited to, all technology, infrastructure, 8092
services, contracts, and direct or indirect personnel costs; 8093

(3) The individual per taxpayer cost of the proposed 8094
duplicative or competing electronic commerce services on an 8095
annualized basis and the cost of these services per user on an 8096
annualized basis; 8097

(4) The government agency's reasons for believing that the 8098
cost benefits of providing duplicative or competing electronic 8099
commerce services require the expenditure of public moneys; 8100

(5) An identification of unmet needs in the consumer 8101
marketplace that the proposed duplicative or competing electronic 8102
commerce services would fulfill; 8103

(6) A description of how the proposed duplicative or 8104
competing electronic commerce services would differ from those 8105
provided by two or more competing private enterprises; 8106

(7) An economic impact analysis demonstrating that the 8107
offering of the proposed duplicative or competing electronic 8108

commerce services by the government agency will not be 8109
anticompetitive in its effect on the existing industry and will 8110
not adversely impact or distort the marketplace of two or more 8111
competing private enterprises providing the same or similar 8112
electronic commerce services. 8113

(D)(1) After reviewing comments from the public following the 8114
public hearing described in this section, if the head of a 8115
government agency decides to proceed with offering duplicative or 8116
competing electronic commerce services to the public, the head of 8117
the government agency shall sign factual and legal conclusions 8118
addressing the comments and each of the factors set forth in the 8119
public notice described in division (C) of this section, and send 8120
a written notice to the controlling board that sets forth these 8121
conclusions and the government agency's decision to proceed. 8122

(2) A government agency shall not offer duplicative or 8123
competing electronic commerce services to the public without the 8124
approval of the controlling board. 8125

(3) The controlling board may continue to exercise oversight 8126
with respect to any approval decision it makes under division 8127
(D)(2) of this section. 8128

(E)(1) Any government agency providing electronic commerce 8129
services in a jurisdiction where a private enterprise provides the 8130
same electronic commerce services shall prepare and publish an 8131
annual report about its electronic commerce services. 8132

(2) The annual report described in division (E)(1) of this 8133
section substantially shall be in accordance with full cost 8134
accounting and shall disclose the amount, source, and cost of 8135
working capital utilized by the government agency for providing 8136
electronic commerce services. 8137

(F) For purposes of providing the public notice and preparing 8138
and publishing the annual report described in this section, a 8139

government agency, by any reasonable method consistent with 8140
applicable generally accepted accounting principles, shall 8141
allocate indirect costs that support multiple electronic commerce 8142
services or functions among those services and functions in 8143
proportion to the relative burden each service or function places 8144
on the cost category. 8145

Sec. 1306.29. (A) Nothing in sections 1306.25 to 1306.28 of 8146
the Revised Code applies to the installation, construction, 8147
expansion, maintenance, or operation of any physical 8148
infrastructure by a political subdivision that is a public cable 8149
service provider, in accordance with Chapter 1332. of the Revised 8150
Code and whether on its own or in conjunction with other public 8151
cable service providers or private cable service providers, for 8152
the sole purpose of providing cable service under such authority 8153
as otherwise conferred by law. 8154

(B) For purposes of division (A) of this section, "public 8155
cable service provider," "private cable service provider," and 8156
"cable service" have the same meanings as in section 1332.01 of 8157
the Revised Code. 8158

Sec. 1309.109. (A) Except as otherwise provided in divisions 8159
(C) and (D) of this section, this chapter applies to the 8160
following: 8161

(1) A transaction, regardless of its form, that creates a 8162
security interest in personal property or fixtures by contract; 8163

(2) An agricultural lien; 8164

(3) A sale of accounts, chattel paper, payment intangibles, 8165
or promissory notes; 8166

(4) A consignment; 8167

(5) A security interest arising under section 1302.42 or 8168

1302.49, division (C) of section 1302.85, or division (E) of	8169
section 1310.54 of the Revised Code, as provided in section	8170
1309.110 of the Revised Code; and	8171
(6) A security interest arising under section 1304.20 or	8172
1305.18 of the Revised Code.	8173
(B) The application of this chapter to a security interest in	8174
a secured obligation is not affected by the fact that the	8175
obligation is itself secured by a transaction or interest to which	8176
this chapter does not apply.	8177
(C) This chapter does not apply to the extent that:	8178
(1) A statute, regulation, or treaty of the United States	8179
preempts this chapter; or	8180
(2) The rights of a transferee beneficiary or nominated	8181
person under a letter of credit are independent and superior under	8182
section 1305.13 of the Revised Code.	8183
(D) This chapter does not apply to <u>the following</u> :	8184
(1) A landlord's lien, other than an agricultural lien;	8185
(2)(a) A lien, not enumerated in division (D)(2) of this	8186
section and other than an agricultural lien, given by statute or	8187
other rule of law for services or materials, including any lien	8188
created under any provision of Chapter 926., sections 1311.55 to	8189
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter	8190
4585. of the Revised Code;	8191
(b) Notwithstanding division (D)(2)(a) of this section,	8192
section 1309.333 of the Revised Code applies with respect to	8193
priority of the lien.	8194
(3) An assignment of a claim for wages, salary, or other	8195
compensation of an employee;	8196
(4) A sale of accounts, chattel paper, payment intangibles,	8197
or promissory notes as part of a sale of the business out of which	8198

they arose;	8199
(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;	8200 8201 8202
(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;	8203 8204
(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	8205 8206 8207
(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;	8208 8209 8210 8211 8212 8213
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	8214 8215
(10) A right of recoupment or set-off, but:	8216
(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	8217 8218 8219
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	8220 8221
(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:	8222 8223 8224
(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;	8225 8226
(b) Fixtures in section 1309.334 of the Revised Code;	8227

(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 8228
1309.516, and 1309.519 of the Revised Code; and 8229

(d) Security agreements covering personal and real property 8230
in section 1309.604 of the Revised Code. 8231

(12) An assignment of a claim arising in tort, other than a 8232
commercial tort claim, but sections 1309.315 and 1309.322 of the 8233
Revised Code apply with respect to proceeds and priorities in 8234
proceeds; 8235

(13) An assignment of a deposit account in a consumer 8236
transaction, but sections 1309.315 and 1309.322 of the Revised 8237
Code apply with respect to proceeds and priorities in proceeds; or 8238

(14) A transfer by a government, state, or governmental unit. 8239

(E) The granting of a security interest in all or any part of 8240
a lottery prize award for consideration is subject to the 8241
prohibition of division ~~(A)(3)(C)~~ of section 3770.07 of the 8242
Revised Code. The sale, assignment, or other redirection of a 8243
lottery prize award for consideration is subject to the provisions 8244
of division ~~(A)(4)(D)~~ of section 3770.07 and sections 3770.10 to 8245
3770.14 of the Revised Code. 8246

Sec. 1321.21. All fees, charges, penalties, and forfeitures 8247
collected under Chapters 1321., 1322., 4712., 4727., and 4728., 8248
sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and 8249
sections 1349.25 to 1349.37 of the Revised Code shall be paid to 8250
the superintendent of financial institutions and shall be 8251
deposited by the superintendent into the state treasury to the 8252
credit of the consumer finance fund, which is hereby created. The 8253
fund may be expended or obligated by the superintendent for the 8254
defrayment of the costs of administration of Chapters 1321., 8255
1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ 8256
sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of 8257

the Revised Code by the division of financial institutions. All 8258
actual and necessary expenses incurred by the superintendent, 8259
including any services rendered by the department of commerce for 8260
the division's administration of Chapters 1321., 1322., 4712., 8261
4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 8262
1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised 8263
Code, shall be paid from the fund. The fund shall be assessed a 8264
proportionate share of the administrative costs of the department 8265
and the division. The proportionate share of the administrative 8266
costs of the division of financial institutions shall be 8267
determined in accordance with procedures prescribed by the 8268
superintendent and approved by the director of budget and 8269
management. Such assessment shall be paid from the consumer 8270
finance fund to the division of administration fund or the 8271
financial institutions fund. 8272

Sec. 1333.99. (A) Whoever violates sections 1333.01 to 8273
1333.04 of the Revised Code is guilty of a minor misdemeanor. 8274

(B) Whoever violates section 1333.12 of the Revised Code is 8275
guilty of a misdemeanor of the fourth degree. 8276

(C) Whoever violates section 1333.36 of the Revised Code is 8277
guilty of a misdemeanor of the third degree. 8278

(D) A prosecuting attorney may file an action to restrain any 8279
person found in violation of section 1333.36 of the Revised Code. 8280
Upon the filing of such an action, the common pleas court may 8281
receive evidence of such violation and forthwith grant a temporary 8282
restraining order as may be prayed for, pending a hearing on the 8283
merits of said cause. 8284

(E) Whoever violates division (A)(1) of section 1333.52 or 8285
section 1333.81 of the Revised Code is guilty of a misdemeanor of 8286
the first degree. 8287

(F) Whoever violates division (A)(2) or (B) of section 8288
1333.52 ~~or division (F) or (H) of section 1333.96~~ of the Revised 8289
Code is guilty of a misdemeanor of the second degree. 8290

(G) Except as otherwise provided in this division, whoever 8291
violates section 1333.92 of the Revised Code is guilty of a 8292
misdemeanor of the first degree. If the value of the compensation 8293
is five hundred dollars or more and less than five thousand 8294
dollars, whoever violates section 1333.92 of the Revised Code is 8295
guilty of a felony of the fifth degree. If the value of the 8296
compensation is five thousand dollars or more and less than one 8297
hundred thousand dollars, whoever violates section 1333.92 of the 8298
Revised Code is guilty of a felony of the fourth degree. If the 8299
value of the compensation is one hundred thousand dollars or more, 8300
whoever violates section 1333.92 of the Revised Code is guilty of 8301
a felony of the third degree. 8302

~~(H) Whoever violates division (B), (C), or (I) of section 8303
1333.96 of the Revised Code is guilty of a misdemeanor of the 8304
third degree. 8305~~

~~(I) Any person not registered as a travel agency or tour 8306
promoter as provided in divisions (B) and (C) of section 1333.96 8307
of the Revised Code who states that the person is so registered is 8308
guilty of a misdemeanor of the first degree. 8309~~

Sec. 1501.04. There is hereby created in the department of 8310
natural resources a recreation and resources commission composed 8311
of the ~~chairman~~ chairperson of the wildlife council created under 8312
section 1531.03 of the Revised Code, the ~~chairman~~ chairperson of 8313
the parks and recreation council created under section 1541.40 of 8314
the Revised Code, the ~~chairman~~ chairperson of the waterways safety 8315
council created under section 1547.73 of the Revised Code, the 8316
~~chairman~~ chairperson of the technical advisory council on oil and 8317
gas created under section 1509.38 of the Revised Code, the 8318

chairman of the forestry advisory council created under section 8319
1503.40 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 8320
soil and water conservation commission created under section 8321
1515.02 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 8322
natural areas council created under section 1517.03 of the Revised 8323
Code, the ~~chairman~~ chairperson of the Ohio water advisory council 8324
created under section 1521.031 of the Revised Code, the 8325
chairperson of the recycling and litter prevention advisory 8326
council created under section 1502.04 of the Revised Code, ~~the~~ 8327
~~chairperson of the civilian conservation advisory council created~~ 8328
~~under section 1553.10 of the Revised Code,~~ the ~~chairman~~ 8329
chairperson of the Ohio geology advisory council created under 8330
section 1505.11 of the Revised Code, and five members appointed by 8331
the governor with the advice and consent of the senate, not more 8332
than three of whom shall belong to the same political party. The 8333
director of natural resources shall be an ex officio member of the 8334
commission, with a voice in its deliberations, but without the 8335
power to vote. 8336

Terms of office of members of the commission appointed by the 8337
governor shall be for five years, commencing on the second day of 8338
February and ending on the first day of February. Each member 8339
shall hold office from the date of ~~his~~ appointment until the end 8340
of the term for which ~~he~~ the member was appointed. 8341

In the event of the death, removal, resignation, or 8342
incapacity of a member of the commission, the governor, with the 8343
advice and consent of the senate, shall appoint a successor who 8344
shall hold office for the remainder of the term for which ~~his~~ the 8345
member's predecessor was appointed. Any member shall continue in 8346
office subsequent to the expiration date of ~~his~~ the member's term 8347
until ~~his~~ the member's successor takes office, or until a period 8348
of sixty days has elapsed, whichever occurs first. 8349

The governor may remove any appointed member of the 8350

commission for misfeasance, nonfeasance, or malfeasance in office. 8351

The commission shall exercise no administrative function, but 8352
may: 8353

(A) Advise with and recommend to the director ~~of natural~~ 8354
~~resources~~ as to plans and programs for the management, 8355
development, utilization, and conservation of the natural 8356
resources of the state; 8357

(B) Advise with and recommend to the director as to methods 8358
of coordinating the work of the divisions of the department; 8359

(C) Consider and make recommendations upon any matter ~~which~~ 8360
that the director may submit to it; 8361

(D) Submit to the governor biennially recommendations for 8362
amendments to the conservation laws of the state. 8363

~~Before~~ Each member of the commission, before entering upon 8364
the discharge of ~~his~~ the member's duties, ~~each member of the~~ 8365
~~commission~~ shall take and subscribe to an oath of office, which 8366
oath, in writing, shall be filed in the office of the secretary of 8367
state. 8368

The members of the commission shall serve without 8369
compensation, but shall be entitled to receive their actual and 8370
necessary expenses incurred in the performance of their official 8371
duties. 8372

The commission, by a majority vote of all its members, shall 8373
adopt and amend bylaws. 8374

To be eligible for appointment, a person shall be a citizen 8375
of the United States and an elector of the state and shall possess 8376
a knowledge of and have an interest in the natural resources of 8377
this state. 8378

The commission shall hold at least four regular quarterly 8379
meetings each year. Special meetings shall be held at such times 8380

as the bylaws of the commission provide. Notices of all meetings 8381
shall be given in such manner as the bylaws provide. The 8382
commission shall choose annually from among its members a ~~chairman~~ 8383
chairperson to preside over its meetings and a secretary to keep a 8384
record of its proceedings. A majority of the members of the 8385
commission constitutes a quorum. No advice shall be given or 8386
recommendation made without a majority of the members of the 8387
commission concurring therein. 8388

Sec. 1503.05. (A) The chief of the division of forestry may 8389
sell timber and other forest products from the state forest and 8390
state forest nurseries whenever the chief considers such a sale 8391
desirable and, with the approval of the attorney general and the 8392
director of natural resources, may sell portions of the state 8393
forest lands when such a sale is advantageous to the state. 8394

(B) Except as otherwise provided in this section, a timber 8395
sale agreement shall not be executed unless the person or 8396
governmental entity bidding on the sale executes and files a 8397
surety bond conditioned on completion of the timber sale in 8398
accordance with the terms of the agreement in an amount equal to 8399
twenty-five per cent of the highest value cutting section. All 8400
bonds shall be given in a form prescribed by the chief and shall 8401
run to the state as obligee. 8402

The chief shall not approve any bond until it is personally 8403
signed and acknowledged by both principal and surety, or as to 8404
either by the attorney in fact thereof, with a certified copy of 8405
the power of attorney attached. The chief shall not approve the 8406
bond unless there is attached a certificate of the superintendent 8407
of insurance that the company is authorized to transact a fidelity 8408
and surety business in this state. 8409

In lieu of a bond, the bidder may deposit any of the 8410
following: 8411

(1) Cash in an amount equal to the amount of the bond;	8412
(2) United States government securities having a par value equal to or greater than the amount of the bond;	8413 8414
(3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond.	8415 8416 8417 8418
The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.	8419 8420 8421 8422 8423 8424 8425 8426 8427 8428
Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates	8429 8430 8431 8432 8433 8434 8435 8436 8437 8438 8439 8440 8441 8442

of deposit, or letters of credit withdrawn. 8443

A bidder may demand and receive from the treasurer of state 8444
all interest or other income from any such securities or 8445
certificates as it becomes due. If securities so deposited with 8446
and in the possession of the treasurer of state mature or are 8447
called for payment by their issuer, the treasurer of state, at the 8448
request of the bidder who deposited them, shall convert the 8449
proceeds of the redemption or payment of the securities into other 8450
United States government securities, negotiable certificates of 8451
deposit, or cash as the bidder designates. 8452

When the chief finds that a person or governmental agency has 8453
failed to comply with the conditions of the person's or 8454
governmental agency's bond, the chief shall make a finding of that 8455
fact and declare the bond, cash, securities, certificates, or 8456
letters of credit forfeited. The chief thereupon shall certify the 8457
total forfeiture to the attorney general, who shall proceed to 8458
collect the amount of the bond, cash, securities, certificates, or 8459
letters of credit. 8460

In lieu of total forfeiture, the surety, at its option, may 8461
cause the timber sale to be completed or pay to the treasurer of 8462
state the cost thereof. 8463

All moneys collected as a result of forfeitures of bonds, 8464
cash, securities, certificates, and letters of credit under this 8465
section shall be credited to the state forest fund created in this 8466
section. 8467

(C) The chief may grant easements and leases on portions of 8468
the state forest lands and state forest nurseries under terms that 8469
are advantageous to the state, and the chief may grant mineral 8470
rights on a royalty basis on those lands and nurseries, with the 8471
approval of the attorney general and the director. 8472

(D) All moneys received from the sale of state forest lands, 8473

or in payment for easements or leases on or as rents from those 8474
lands or from state forest nurseries, shall be paid into the state 8475
treasury to the credit of the state forest fund, which is hereby 8476
created. All moneys received from the sale of standing timber 8477
taken from the state forest lands shall be deposited into the 8478
state treasury. Twenty per cent of the moneys so deposited shall 8479
be credited to the state forest fund. Eighty per cent of the 8480
moneys so deposited shall be credited to the general revenue fund. 8481
All moneys received from the sale of forest products, other than 8482
standing timber, and minerals taken from the state forest lands 8483
and state forest nurseries, together with royalties from mineral 8484
rights, shall be paid into the state treasury to the credit of the 8485
state forest fund. 8486

At the time of making such a ~~payment or deposit~~ into the 8487
state treasury to the credit of the general revenue fund, the 8488
chief shall determine the amount and gross value of all such 8489
~~products~~ standing timber sold ~~or royalties received~~ from lands and 8490
nurseries in each county, in each township within the county, and 8491
in each school district within the county. Afterward the chief 8492
shall send to each county treasurer a copy of the determination 8493
and shall provide for payment to the county treasurer, for the use 8494
of the general fund of that county from the amount so received as 8495
provided in this division, an amount equal to ~~eighty~~ seventy per 8496
cent of the gross value of the ~~products~~ standing timber sold ~~or~~ 8497
~~royalties received~~ from lands and nurseries located in that 8498
county. The county auditor shall do all of the following: 8499

(1) Retain for the use of the general fund of the county 8500
one-fourth of the amount received by the county under division (D) 8501
of this section; 8502

(2) Pay into the general fund of any township located within 8503
the county and containing such lands and nurseries one-fourth of 8504
the amount received by the county from ~~products~~ standing timber 8505

sold ~~or royalties received~~ from lands and nurseries located in the township; 8506
8507

(3) Request the board of education of any school district 8508
located within the county and containing such lands and nurseries 8509
to identify which fund or funds of the district should receive the 8510
moneys available to the school district under division (D)(3) of 8511
this section. After receiving notice from the board, the county 8512
auditor shall pay into the fund or funds so identified one-half of 8513
the amount received by the county from ~~products~~ standing timber 8514
sold ~~or royalties received~~ from lands and nurseries located in the 8515
school district, distributed proportionately as identified by the 8516
board. 8517

The division of forestry shall not supply logs, lumber, or 8518
other forest products or minerals, taken from the state forest 8519
lands or state forest nurseries, to any other agency or 8520
subdivision of the state unless payment is made therefor in the 8521
amount of the actual prevailing value thereof. This section is 8522
applicable to the moneys so received. All moneys received from the 8523
sale of reforestation tree stock or other revenues derived from 8524
the operation of the state forests, facilities, or equipment shall 8525
be paid into the state forest fund. 8526

The fund shall not be expended for any purpose other than the 8527
administration, operation, maintenance, development, or 8528
utilization of the state forests, forest nurseries, and forest 8529
programs, for facilities or equipment incident to them, or for the 8530
further purchase of lands for state forest or forest nursery 8531
purposes. 8532

Sec. 1513.05. There is hereby created a reclamation 8533
commission consisting of seven members appointed by the governor 8534
with the advice and consent of the senate. For the purposes of 8535
hearing appeals under section 1513.13 of the Revised Code that 8536

involve mine safety issues, the reclamation commission shall 8537
consist of two additional members appointed specifically for that 8538
function by the governor with the advice and consent of the 8539
senate. All terms of office shall be for five years, commencing on 8540
the twenty-ninth day of June and ending on the twenty-eighth day 8541
of June. Each member shall hold office from the date of 8542
appointment until the end of the term for which the appointment 8543
was made. Each vacancy occurring on the commission shall be filled 8544
by appointment within sixty days after the vacancy occurs. Any 8545
member appointed to fill a vacancy occurring prior to the 8546
expiration of the term for which the member's predecessor was 8547
appointed shall hold office for the remainder of such term. Any 8548
member shall continue in office subsequent to the expiration date 8549
of the member's term until the member's successor takes office, or 8550
until a period of sixty days has elapsed, whichever occurs first. 8551

Two of the appointees to the commission shall be persons who, 8552
at the time of their appointment, own and operate a farm or are 8553
retired farmers. Notwithstanding section 1513.04 of the Revised 8554
Code, one of the appointees to the commission shall be a person 8555
who, at the time of appointment, is the representative of an 8556
operator of a coal mine. One of the appointees to the commission 8557
shall be a person who, by reason of the person's previous 8558
vocation, employment, or affiliations, can be classed as a 8559
representative of the public. One of the appointees to the 8560
commission shall be a person who, by reason of previous training 8561
and experience, can be classed as one learned and experienced in 8562
modern forestry practices. One of the appointees to the commission 8563
shall be a person who, by reason of previous training and 8564
experience, can be classed as one learned and experienced in 8565
agronomy. One of the appointees to the commission shall be either 8566
a person who, by reason of previous training and experience, can 8567
be classed as one capable and experienced in earth-grading 8568
problems, or a civil engineer. Beginning not later than five years 8569

after the effective date of this amendment, at least one of the 8570
seven appointees to the commission shall be an attorney at law who 8571
is admitted to practice in this state and is familiar with mining 8572
issues. Not more than four members shall be members of the same 8573
political party. 8574

The two additional members of the commission who are 8575
appointed specifically to hear appeals that involve mine safety 8576
issues shall be individuals who, because of previous vocation, 8577
employment, or affiliation, can be classified as representatives 8578
of employees currently engaged in mining operations. One shall be 8579
a representative of coal miners, and one shall be a representative 8580
of aggregates miners. Prior to making the appointment, the 8581
governor shall request the highest ranking officer in the major 8582
employee organization representing coal miners in this state to 8583
submit to the governor the names and qualifications of three 8584
nominees and shall request the highest ranking officer in the 8585
major employee organization representing aggregates miners in this 8586
state to do the same. The governor shall appoint one person 8587
nominated by each organization to the commission. The nominees 8588
shall have not less than five years of practical experience in 8589
dealing with mine health and safety issues and at the time of the 8590
nomination shall be employed in positions that involve the 8591
protection of the health and safety of miners. The major employee 8592
organization representing coal miners and the major employee 8593
organization representing aggregates miners shall represent a 8594
membership consisting of the largest number of coal miners and 8595
aggregates miners, respectively, in this state compared to other 8596
employee organizations in the year prior to the year in which the 8597
appointments are made. 8598

When the commission hears an appeal that involves a coal 8599
mining safety issue, one of the commission members who owns and 8600
operates a farm or is a retired farmer shall be replaced by the 8601

additional member who is a representative of coal miners. When the 8602
commission hears an appeal that involves an aggregates mining 8603
safety issue, one of the commission members who owns and operates 8604
a farm or is a retired farmer shall be replaced by the additional 8605
member who is a representative of aggregates miners. Neither of 8606
the additional members who are appointed specifically to hear 8607
appeals that involve mine safety issues shall be considered to be 8608
members of the commission for any other purpose, and they shall 8609
not participate in any other matters that come before the 8610
commission. 8611

The commission may appoint a secretary to hold office at its 8612
pleasure. A commission member may serve as secretary. The 8613
secretary shall perform such duties as the commission prescribes, 8614
and shall receive such compensation as the commission fixes in 8615
accordance with such schedules as are provided by law for the 8616
compensation of state employees. 8617

The commission shall appoint one or more hearing officers who 8618
shall be attorneys at law admitted to practice in this state to 8619
conduct hearings under this chapter. 8620

Four members constitute a quorum, and no action of the 8621
commission shall be valid unless it has the concurrence of at 8622
least four members. The commission shall keep a record of its 8623
proceedings. 8624

Each member shall be paid as compensation for work as a 8625
member one hundred fifty dollars per day when actually engaged in 8626
the performance of work as a member and when engaged in travel 8627
necessary in connection with such work. In addition to such 8628
compensation each member shall be reimbursed for all traveling, 8629
hotel, and other expenses, in accordance with the current travel 8630
rules of the office of budget and management, necessarily incurred 8631
in the performance of the member's work as a member. 8632

Annually one member shall be elected as chairperson and 8633
another member shall be elected as vice-chairperson for terms of 8634
one year. 8635

The governor may remove any member of the commission from 8636
office for inefficiency, neglect of duty, malfeasance, 8637
misfeasance, or nonfeasance, after delivering to the member the 8638
charges against the member in writing with at least ten days' 8639
written notice of the time and place at which the governor will 8640
publicly hear the member, either in person or by counsel, in 8641
defense of the charges against the member. If the member is 8642
removed from office, the governor shall file in the office of the 8643
secretary of state a complete statement of the charges made 8644
against the member and a complete report of the proceedings. The 8645
action of the governor removing a member from office is final. 8646

The commission shall adopt rules governing procedure of 8647
appeals under section 1513.13 of the Revised Code and may, for its 8648
own internal management, adopt rules that do not affect private 8649
rights. 8650

Sec. 1519.05. (A) As used in this section, "local political 8651
subdivision" and "nonprofit organization" have the same meanings 8652
as in section 164.20 of the Revised Code. 8653

(B) There is hereby created in the state treasury the clean 8654
Ohio trail fund. Twelve and one-half per cent of the net proceeds 8655
of obligations issued and sold pursuant to sections 151.01 and 8656
151.09 of the Revised Code shall be deposited into the fund. 8657

Investment earnings of the fund shall be credited to the 8658
fund. ~~For two years after the effective date of this section,~~ 8659
~~investment earnings credited to the fund~~ and may be used to pay 8660
costs incurred by the director of natural resources in 8661
administering this section. 8662

Money in the clean Ohio trail fund shall not be used for the 8663
appropriation of land, rights, rights-of-way, franchises, 8664
easements, or other property through the exercise of the right of 8665
eminent domain. 8666

The director shall use moneys in the fund exclusively to 8667
provide matching grants to nonprofit organizations and to local 8668
political subdivisions for the purposes of purchasing land or 8669
interests in land for recreational trails and for the construction 8670
of such trails. A matching grant may provide up to seventy-five 8671
per cent of the cost of a recreational trail project, and the 8672
recipient of the matching grant shall provide not less than 8673
twenty-five per cent of that cost. 8674

(C) The director shall establish policies for the purposes of 8675
this section. The policies shall establish all of the following: 8676

(1) Procedures for providing matching grants to nonprofit 8677
organizations and local political subdivisions for the purposes of 8678
purchasing land or interests in land for recreational trails and 8679
for the construction of such trails, including, without 8680
limitation, procedures for both of the following: 8681

(a) Developing a grant application form and soliciting, 8682
accepting, and approving grant applications; 8683

(b) Participation by nonprofit organizations and local 8684
political subdivisions in the application process. 8685

(2) A requirement that an application for a matching grant 8686
for a recreational trail project include a copy of a resolution 8687
supporting the project from each county in which the proposed 8688
project is to be conducted and whichever of the following is 8689
applicable: 8690

(a) If the proposed project is to be conducted wholly within 8691
the geographical boundaries of one township, a copy of a 8692

- resolution supporting the project from the township; 8693
- (b) If the proposed project is to be conducted wholly within 8694
the geographical boundaries of one municipal corporation, a copy 8695
of a resolution supporting the project from the municipal 8696
corporation; 8697
- (c) If the proposed project is to be conducted in more than 8698
one, but fewer than five townships or municipal corporations, a 8699
copy of a resolution supporting the project from at least one-half 8700
of the total number of townships and municipal corporations in 8701
which the proposed project is to be conducted; 8702
- (d) If the proposed project is to be conducted in five or 8703
more municipal corporations, a copy of a resolution supporting the 8704
project from at least three-fifths of the total number of 8705
townships and municipal corporations in which the proposed project 8706
is to be conducted. 8707
- (3) Eligibility criteria that must be satisfied by an 8708
applicant in order to receive a matching grant and that emphasize 8709
the following: 8710
- (a) Synchronization with the statewide trail plan; 8711
- (b) Complete regional systems and links to the statewide 8712
trail system; 8713
- (c) A combination of funds from various state agencies; 8714
- (d) The provision of links in urban areas that support 8715
commuter access and show economic impact on local communities; 8716
- (e) The linkage of population centers with public outdoor 8717
recreation areas and facilities; 8718
- (f) The purchase of rail lines that are linked to the 8719
statewide trail plan; 8720
- (g) The preservation of natural corridors. 8721

(4) Items of value, such as in-kind contributions of land, 8722
easements or other interests in land, labor, or materials, that 8723
may be considered as contributing toward the percentage of the 8724
cost of a recreational trails project that must be provided by a 8725
matching grant recipient. 8726

Sec. 1521.06. (A) No dam may be constructed for the purpose 8727
of storing, conserving, or retarding water, or for any other 8728
purpose, nor shall any dike or levee be constructed for the 8729
purpose of diverting or retaining flood water, unless the person 8730
or governmental agency desiring the construction has a 8731
construction permit for the dam, dike, or levee issued by the 8732
chief of the division of water. 8733

A construction permit is not required under this section for: 8734

(1) A dam ~~which~~ that is or will be less than ten feet in 8735
height and ~~which~~ that has or will have a storage capacity of not 8736
more than fifty acre-feet at the elevation of the top of the dam, 8737
as determined by the chief. For the purposes of this section, the 8738
height of a dam shall be measured from the natural stream bed or 8739
lowest ground elevation at the downstream or outside limit of the 8740
dam to the elevation of the top of the dam. 8741

(2) A dam, regardless of height, ~~which~~ that has or will have 8742
a storage capacity of not more than fifteen acre-feet at the 8743
elevation of the top of the dam, as determined by the chief; 8744

(3) A dam, regardless of storage capacity, ~~which~~ that is or 8745
will be six feet or less in height, as determined by the chief; 8746

(4) A dam, dike, or levee ~~which~~ that belongs to a class 8747
exempted by the chief; 8748

(5) The repair, maintenance, improvement, alteration, or 8749
removal of a dam, dike, or levee ~~which~~ that is subject to section 8750
1521.062 of the Revised Code, unless the construction constitutes 8751

an enlargement of the structure as determined by the chief; 8752

(6) A dam or impoundment constructed under Chapter 1513. of 8753
the Revised Code. 8754

(B) Before a construction permit may be issued, three copies 8755
of the plans and specifications, including a detailed cost 8756
estimate, for the proposed construction, prepared by a registered 8757
professional engineer, together with the filing fee specified by 8758
this section and the bond or other security required by section 8759
1521.061 of the Revised Code, shall be filed with the chief. The 8760
detailed estimate of the cost shall include all costs associated 8761
with the construction of the dam, dike, or levee, including 8762
supervision and inspection of the construction by a registered 8763
professional engineer. ~~Except for a political subdivision, the~~ The 8764
filing fee shall be based on the detailed cost estimate for the 8765
proposed construction as filed with and approved by the chief, and 8766
shall be determined by the following schedule unless otherwise 8767
provided by rules adopted under this section: 8768

(1) For the first one hundred thousand dollars of estimated 8769
cost, a fee of ~~two~~ four per cent; 8770

(2) For the next four hundred thousand dollars of estimated 8771
cost, a fee of ~~one and one-half~~ three per cent; 8772

(3) For the next five hundred thousand dollars of estimated 8773
cost, a fee of ~~one~~ two per cent; 8774

(4) For all costs in excess of one million dollars, a fee of 8775
~~one-quarter~~ one-half of one per cent. 8776

In no case shall the filing fee be less than ~~two hundred~~ one 8777
thousand dollars or more than ~~fifty~~ one hundred thousand dollars. 8778
If the actual cost exceeds the estimated cost by more than fifteen 8779
per cent, an additional filing fee shall be required equal to the 8780
fee determined by the preceding schedule less the original filing 8781
fee. ~~The filing fee for a political subdivision shall be two~~ 8782

~~hundred dollars.~~ All fees collected pursuant to this section, and 8783
all fines collected pursuant to section 1521.99 of the Revised 8784
Code, shall be deposited in the state treasury to the credit of 8785
the dam safety fund, which is hereby created. Expenditures from 8786
the fund shall be made by the chief for the purpose of 8787
administering this section and sections 1521.061 and 1521.062 of 8788
the Revised Code. 8789

(C) The chief shall, within thirty days from the date of the 8790
receipt of the application, fee, and bond or other security, issue 8791
or deny a construction permit for the construction or may issue a 8792
construction permit conditioned upon the making of such changes in 8793
the plans and specifications for the construction as ~~he~~ the chief 8794
considers advisable if ~~he~~ the chief determines that the 8795
construction of the proposed dam, dike, or levee, in accordance 8796
with the plans and specifications filed, would endanger life, 8797
health, or property. 8798

(D) The chief may deny a construction permit ~~if he finds~~ 8799
after finding that a dam, dike, or levee built in accordance with 8800
the plans and specifications would endanger life, health, or 8801
property, because of improper or inadequate design, or for such 8802
other reasons as the chief may determine. 8803

In the event the chief denies a permit for the construction 8804
of the dam, dike, or levee, or issues a permit conditioned upon a 8805
making of changes in the plans or specifications for the 8806
construction, ~~he~~ the chief shall state ~~his~~ the reasons therefor 8807
and so notify, in writing, the person or governmental agency 8808
making the application for a permit. If the permit is denied, the 8809
chief shall return the bond or other security to the person or 8810
governmental agency making application for the permit. 8811

The decision of the chief conditioning or denying a 8812
construction permit is subject to appeal as provided in Chapter 8813
119. of the Revised Code. A dam, dike, or levee built 8814

substantially at variance from the plans and specifications upon 8815
which a construction permit was issued is in violation of this 8816
section. The chief may at any time inspect any dam, dike, or 8817
levee, or site upon which any dam, dike, or levee is to be 8818
constructed, in order to determine whether it complies with this 8819
section. 8820

(E) A registered professional engineer shall inspect the 8821
construction for which the permit was issued during all phases of 8822
construction and shall furnish to the chief such regular reports 8823
of ~~his~~ the engineer's inspections as the chief may require. When 8824
the chief finds that construction has been fully completed in 8825
accordance with the terms of the permit and the plans and 8826
specifications approved by ~~him~~ the chief, ~~he~~ the chief shall 8827
approve the construction. When one year has elapsed after approval 8828
of the completed construction, and the chief finds that within 8829
this period no fact has become apparent to indicate that the 8830
construction was not performed in accordance with the terms of the 8831
permit and the plans and specifications approved by the chief, or 8832
that the construction as performed would endanger life, health, or 8833
property, ~~he~~ the chief shall release the bond or other security. 8834
No bond or other security shall be released until one year after 8835
final approval by the chief, unless the dam, dike, or levee has 8836
been modified so that it will not retain water and has been 8837
approved as nonhazardous after determination by the chief that the 8838
dam, dike, or levee as modified will not endanger life, health, or 8839
property. 8840

(F) When inspections required by this section are not being 8841
performed, the chief shall notify the person or governmental 8842
agency to which the permit has been issued that inspections are 8843
not being performed by the registered professional engineer and 8844
that the chief will inspect the remainder of the construction. 8845
Thereafter, the chief shall inspect the construction and the cost 8846

of inspection shall be charged against the owner. Failure of the 8847
registered professional engineer to submit required inspection 8848
reports shall be deemed notice that ~~his~~ the engineer's inspections 8849
are not being performed. 8850

(G) The chief may order construction to cease on any dam, 8851
dike, or levee ~~which~~ that is being built in violation of ~~the~~ 8852
~~provisions of~~ this section, and may prohibit the retention of 8853
water behind any dam, dike, or levee ~~which~~ that has been built in 8854
violation of ~~the provisions of~~ this section. The attorney general, 8855
upon written request of the chief, may bring an action for an 8856
injunction against any person who violates this section or to 8857
enforce an order or prohibition of the chief made pursuant to this 8858
section. 8859

(H) The chief may adopt rules in accordance with Chapter 119. 8860
of the Revised Code, for the design and construction of dams, 8861
dikes, and levees for which a construction permit is required by 8862
this section or for which periodic inspection is required by 8863
section 1521.062 of the Revised Code, for establishing a filing 8864
fee schedule in lieu of the schedule established under division 8865
(B) of this section, for deposit and forfeiture of bonds and other 8866
securities required by section 1521.061 of the Revised Code, for 8867
the periodic inspection, operation, repair, improvement, 8868
alteration, or removal of all dams, dikes, and levees, as 8869
specified in section 1521.062 of the Revised Code, and for 8870
establishing classes of dams, dikes, or levees ~~which~~ that are 8871
exempt from the requirements of sections 1521.06 and 1521.062 of 8872
the Revised Code as being of a size, purpose, or situation ~~which~~ 8873
that does not present a substantial hazard to life, health, or 8874
property. The chief may, by rule, limit the period during which a 8875
construction permit issued under this section is valid. If a 8876
construction permit expires before construction is completed, the 8877
person or agency shall apply for a new permit, and shall not 8878

continue construction until the new permit is issued. 8879

~~(I) As used in this section and section 1521.063 of the 8880
Revised Code, "political subdivision" includes townships, 8881
municipal corporations, counties, school districts, municipal 8882
universities, park districts, sanitary districts, and conservancy 8883
districts and subdivisions thereof. 8884~~

Sec. 1521.063. (A) Except for a ~~political subdivision~~ the 8885
federal government, the owner of any dam subject to section 8886
1521.062 of the Revised Code shall pay an annual fee, based upon 8887
the height of the dam, to the division of water on or before June 8888
30, 1988, and on or before the thirtieth day of June of each 8889
succeeding year. The annual fee shall be as follows until 8890
otherwise provided by rules adopted under this section: 8891

(1) For any dam classified as a class I dam under rules 8892
adopted by the chief of the division of water under section 8893
1521.06 of the Revised Code, thirty dollars plus ~~three~~ ten dollars 8894
per foot of height of dam; 8895

(2) For any dam classified as a class II dam under those 8896
rules, thirty dollars plus one dollar per foot of height of dam; 8897

(3) For any dam classified as a class III dam under those 8898
rules, thirty dollars. 8899

For purposes of this section, the height of a dam is the 8900
vertical height, to the nearest foot, as determined by the 8901
division under section 1521.062 of the Revised Code. All fees 8902
collected under this section shall be deposited in the dam safety 8903
fund created in section 1521.06 of the Revised Code. Any owner who 8904
fails to pay any annual fee required by this section within sixty 8905
days after the due date shall be assessed a penalty of ten per 8906
cent of the annual fee plus interest at the rate of one-half per 8907
cent per month from the due date until the date of payment. 8908

(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.

(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.

(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.

(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.

Sec. 1531.26. There is hereby created in the state treasury the nongame and endangered wildlife fund, which shall consist of moneys paid into it by the tax commissioner under section 5747.113 of the Revised Code, moneys deposited in the fund from the issuance of wildlife conservation license plates under section 4503.57 of the Revised Code, moneys deposited in the fund from the issuance of bald eagle license plates under section 4503.572 of the Revised Code, moneys credited to the fund under section 1533.151 of the Revised Code, and ~~of~~ contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of wildlife solely for the purchase, management, preservation, propagation,

protection, and stocking of wild animals that are not commonly 8940
taken for sport or commercial purposes, including the acquisition 8941
of title and easements to lands, biological investigations, law 8942
enforcement, production of educational materials, sociological 8943
surveys, habitat development, and personnel and equipment costs; 8944
and for carrying out section 1531.25 of the Revised Code. Moneys 8945
in the fund also may be used to promote and develop nonconsumptive 8946
wildlife recreational opportunities involving wild animals. Moneys 8947
in the fund from the issuance of bald eagle license plates under 8948
section 4503.572 of the Revised Code shall be expended by the 8949
division only to pay the costs of acquiring, developing, and 8950
restoring habitat for bald eagles within this state. Moneys in the 8951
fund from any other source also may be used to pay the costs of 8952
acquiring, developing, and restoring habitat for bald eagles 8953
within this state. 8954

All investment earnings of the fund shall be credited to the 8955
fund. Subject to the approval of the director, the chief of the 8956
division of wildlife may enter into agreements that the chief 8957
considers appropriate to obtain additional moneys for the 8958
protection of nongame native wildlife under the "Endangered 8959
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541-1543, as 8960
amended, and the "Fish and Wildlife Conservation Act of 1980," 94 8961
Stat. 1322, 16 U.S.C.A. 2901-2911, as amended. Moneys appropriated 8962
from the fund are not intended to replace other moneys 8963
appropriated for these purposes. 8964

Sec. 1533.08. Except as otherwise provided by division rule, 8965
any person desiring to collect wild animals that are protected by 8966
law or their nests or eggs for scientific study, school 8967
instruction, other educational uses, or rehabilitation shall make 8968
application to the chief of the division of wildlife for a wild 8969
animal collecting permit on a form furnished by the chief. Each 8970
applicant for a wild animal collecting permit, other than an 8971

applicant desiring to rehabilitate wild animals, shall pay an 8972
annual fee of ~~ten~~ twenty-five dollars for each permit. No fee 8973
shall be charged to an applicant desiring to rehabilitate wild 8974
animals. When it appears that the application is made in good 8975
faith, the chief shall issue to the applicant a permit to take, 8976
possess, and transport at any time and in any manner specimens of 8977
wild animals protected by law or their nests and eggs for 8978
scientific study, school instruction, other educational uses, or 8979
rehabilitation and under any additional rules recommended by the 8980
wildlife council. Upon the receipt of a permit, the holder may 8981
take, possess, and transport those wild animals in accordance with 8982
the permit. 8983

Each holder of a permit engaged in collecting such wild 8984
animals shall carry the permit at all times and shall exhibit it 8985
upon demand to any wildlife officer, constable, sheriff, deputy 8986
sheriff, or police officer, to the owner or person in lawful 8987
control of the land upon which the permit holder is collecting, or 8988
to any other person. Failure to so carry or exhibit the permit 8989
constitutes an offense under this section. 8990

Each permit holder shall keep a daily record of all specimens 8991
collected under the permit and the disposition of the specimens 8992
and shall exhibit the daily record to any official of the division 8993
upon demand. 8994

Each permit shall remain in effect for one year from the date 8995
of issuance unless it is revoked sooner by the chief. 8996

All moneys received as fees for the issuance of a wild animal 8997
collecting permit shall be transmitted to the director of natural 8998
resources to be paid into the state treasury to the credit of the 8999
fund created by section 1533.15 of the Revised Code. 9000

Sec. 1533.10. Except as provided in this section or division 9001
(A) of section 1533.12 of the Revised Code, no person shall hunt 9002

any wild bird or wild quadruped without a hunting license. Each 9003
day that any person hunts within the state without procuring such 9004
a license constitutes a separate offense. ~~Every~~ Except as 9005
otherwise provided in this section, every applicant for a hunting 9006
license who is a resident of the state and sixteen years of age or 9007
more shall procure a resident hunting license, the fee for which 9008
shall be ~~fourteen~~ eighteen dollars, unless the rules adopted under 9009
division (B) of section 1533.12 of the Revised Code provide for 9010
issuance of a resident hunting license to the applicant free of 9011
charge. Except as provided in rules adopted under division (B)(2) 9012
of that section, each applicant who is a resident of this state 9013
and who at the time of application is sixty-six years of age or 9014
older shall procure a special senior hunting license, the fee for 9015
which shall be one-half of the regular hunting license fee. Every 9016
applicant who is a resident of the state and under the age of 9017
sixteen years shall procure a special youth hunting license, the 9018
fee for which shall be one-half of the regular hunting license 9019
fee. The owner of lands in the state and the owner's children of 9020
any age and grandchildren under eighteen years of age may hunt on 9021
the lands without a hunting license. The tenant ~~or manager~~ and 9022
children of the tenant ~~or manager~~, residing on lands in the state, 9023
may hunt on them without a hunting license. Every applicant for a 9024
hunting license who is a nonresident of the state shall procure a 9025
nonresident hunting license, the fee for which shall be ~~ninety one~~ 9026
hundred twenty-four dollars, unless the applicant is a resident of 9027
a state that is a party to an agreement under section 1533.91 of 9028
the Revised Code, in which case the fee shall be ~~fourteen~~ eighteen 9029
dollars. 9030

The chief of the division of wildlife may issue a ~~tourist's~~ 9031
small game hunting license expiring three days from the effective 9032
date of the license to a nonresident of the state, the fee for 9033
which shall be ~~twenty-four~~ thirty-nine dollars. No person shall 9034
take or possess deer, wild turkeys, fur-bearing animals, ducks, 9035

geese, brant, or any nongame animal while possessing only a 9036
~~tourist's~~ small game hunting license. A ~~tourist's~~ small game 9037
hunting license does not authorize the taking or possessing of 9038
ducks, geese, or brant without having obtained, in addition to the 9039
~~tourist's~~ small game hunting license, a wetlands habitat stamp as 9040
provided in section 1533.112 of the Revised Code. A ~~tourist's~~ 9041
small game hunting license does not authorize the taking or 9042
possessing of deer, wild turkeys, or fur-bearing animals. A 9043
nonresident of the state who wishes to take or possess deer, wild 9044
turkeys, or fur-bearing animals in this state shall procure, 9045
respectively, a special deer or wild turkey permit as provided in 9046
section 1533.11 of the Revised Code or a fur taker permit as 9047
provided in section 1533.111 of the Revised Code in addition to a 9048
nonresident hunting license as provided in this section. 9049

No person shall procure or attempt to procure a hunting 9050
license by fraud, deceit, misrepresentation, or any false 9051
statement. 9052

This section does not authorize the taking and possessing of 9053
deer or wild turkeys without first having obtained, in addition to 9054
the hunting license required by this section, a special deer or 9055
wild turkey permit as provided in section 1533.11 of the Revised 9056
Code or the taking and possessing of ducks, geese, or brant 9057
without first having obtained, in addition to the hunting license 9058
required by this section, a wetlands habitat stamp as provided in 9059
section 1533.112 of the Revised Code. 9060

This section does not authorize the hunting or trapping of 9061
fur-bearing animals without first having obtained, in addition to 9062
a hunting license required by this section, a fur taker permit as 9063
provided in section 1533.111 of the Revised Code. 9064

No hunting license shall be issued unless it is accompanied 9065
by a written explanation of the law in section 1533.17 of the 9066
Revised Code and the penalty for its violation, including a 9067

description of terms of imprisonment and fines that may be 9068
imposed. 9069

No hunting license shall be issued unless the applicant 9070
presents to the agent authorized to issue the license a previously 9071
held hunting license or evidence of having held such a license in 9072
content and manner approved by the chief, a certificate of 9073
completion issued upon completion of a hunter education and 9074
conservation course approved by the chief, or evidence of 9075
equivalent training in content and manner approved by the chief. 9076

No person shall issue a hunting license to any person who 9077
fails to present the evidence required by this section. No person 9078
shall purchase or obtain a hunting license without presenting to 9079
the issuing agent the evidence required by this section. Issuance 9080
of a hunting license in violation of the requirements of this 9081
section is an offense by both the purchaser of the illegally 9082
obtained hunting license and the clerk or agent who issued the 9083
hunting license. Any hunting license issued in violation of this 9084
section is void. 9085

The chief, with approval of the wildlife council, shall adopt 9086
rules prescribing a hunter education and conservation course for 9087
first-time hunting license buyers and for volunteer instructors. 9088
The course shall consist of subjects including, but not limited 9089
to, hunter safety and health, use of hunting implements, hunting 9090
tradition and ethics, the hunter and conservation, the law in 9091
section 1533.17 of the Revised Code along with the penalty for its 9092
violation, including a description of terms of imprisonment and 9093
fines that may be imposed, and other law relating to hunting. 9094
Authorized personnel of the division or volunteer instructors 9095
approved by the chief shall conduct such courses with such 9096
frequency and at such locations throughout the state as to 9097
reasonably meet the needs of license applicants. The chief shall 9098
issue a certificate of completion to each person who successfully 9099

completes the course and passes an examination prescribed by the 9100
chief. 9101

Sec. 1533.101. Any person who has been issued a hunting or 9102
fishing license, a wetlands habitat stamp, a deer or wild turkey 9103
permit, or a fur taker permit for the current license, stamp, or 9104
permit year or for the license, stamp, or permit year next 9105
preceding the current such year pursuant to this chapter, and if 9106
the license, stamp, or permit has been lost, destroyed, or stolen, 9107
may be issued a reissued hunting or fishing license, wetlands 9108
habitat stamp, deer or wild turkey permit, or fur taker permit. 9109
The person shall file with the clerk of the court of common pleas 9110
an application in affidavit form or, if the chief of the division 9111
of wildlife authorizes it, apply for a reissued license, stamp, or 9112
permit to an authorized agent designated by the chief, and pay a 9113
fee for each license, stamp, or permit of ~~two~~ four dollars plus 9114
one dollar to the clerk or agent, who shall issue a reissued 9115
license, stamp, or permit that shall allow the applicant to hunt, 9116
fish, or trap, as the case may be. The clerk or agent shall 9117
administer the oath to the applicant and shall send a copy of the 9118
reissued license, stamp, or permit to the division of wildlife. 9119

All moneys received as fees for the issuance of reissued 9120
licenses, stamps, or permits shall be transmitted to the director 9121
of natural resources to be paid into the state treasury to the 9122
credit of the funds to which the fees for the original licenses, 9123
stamps, and permits were credited. 9124

No person shall knowingly or willfully secure, attempt to 9125
secure, or use a reissued hunting or fishing license, wetlands 9126
habitat stamp, deer or wild turkey permit, or fur taker permit to 9127
which the person is not entitled. No person shall knowingly or 9128
willfully issue a reissued hunting or fishing license, wetlands 9129
habitat stamp, deer or wild turkey permit, or fur taker permit 9130

under this section to any person who is not entitled to receive 9131
and use such a reissued license, stamp, or permit. 9132

Sec. 1533.11. (A) Except as provided in this section, no 9133
person shall hunt deer on lands of another without first obtaining 9134
an annual special deer permit. Except as provided in this section, 9135
no person shall hunt wild turkeys on lands of another without 9136
first obtaining an annual special wild turkey permit. Each 9137
applicant for a special deer or wild turkey permit shall pay an 9138
annual fee of ~~nineteen~~ twenty-three dollars for each permit, 9139
together with the one-dollar ~~as a~~ fee to the clerk or other 9140
issuing agent established in section 1533.13 of the Revised Code, 9141
for the permit unless the rules adopted under division (B) of 9142
section 1533.12 of the Revised Code provide for issuance of a deer 9143
or wild turkey permit to the applicant free of charge. Except as 9144
provided in division (A) of section 1533.12 of the Revised Code, a 9145
deer or wild turkey permit shall run concurrently with the hunting 9146
license. The money received, other than the ~~one-dollar~~ issuing 9147
agent's fee ~~provided for above~~, shall be paid into the state 9148
treasury to the credit of the wildlife fund, created in section 9149
1531.17 of the Revised Code, exclusively for the use of the 9150
division of wildlife in the acquisition and development of land 9151
for deer or wild turkey management, for investigating deer or wild 9152
turkey problems, and for the stocking, management, and protection 9153
of deer or wild turkey. Every person, while hunting deer or wild 9154
turkey on lands of another, shall carry the person's special deer 9155
or wild turkey permit and exhibit it to any enforcement officer so 9156
requesting. Failure to so carry and exhibit such a permit 9157
constitutes an offense under this section. The chief of the 9158
division of wildlife shall adopt any additional rules the chief 9159
considers necessary to carry out this section and section 1533.10 9160
of the Revised Code. 9161

The owner and the children of the owner of lands in this 9162

state may hunt deer or wild turkey thereon without a special deer 9163
or wild turkey permit. The tenant ~~or manager~~ and children of the 9164
tenant ~~or manager~~ may hunt deer or wild turkey on lands where they 9165
reside without a special deer or wild turkey permit. 9166

(B) A special deer or wild turkey permit is not transferable. 9167
No person shall carry a special deer or wild turkey permit issued 9168
in the name of another person. 9169

(C) The wildlife refunds fund is hereby created in the state 9170
treasury. The fund shall consist of money received from 9171
application fees for special deer permits that are not issued. 9172
Money in the fund shall be used to make refunds of such 9173
application fees. 9174

Sec. 1533.111. Except as provided in this section or division 9175
(A) of section 1533.12 of the Revised Code, no person shall hunt 9176
or trap fur-bearing animals on land of another without first 9177
obtaining an annual fur taker permit. Each applicant for a fur 9178
taker permit shall pay an annual fee of ~~ten~~ fourteen dollars, 9179
together with one dollar as a fee to the clerk or other issuing 9180
agent, for the permit, except as otherwise provided in this 9181
section or unless the rules adopted under division (B) of section 9182
1533.12 of the Revised Code provide for issuance of a fur taker 9183
permit to the applicant free of charge. Except as provided in 9184
rules adopted under division (B)(2) of that section, each 9185
applicant who is a resident of this state and who at the time of 9186
application is sixty-six years of age or older shall procure a 9187
special senior fur taker permit, the fee for which shall be 9188
one-half of the regular fur taker permit fee and which shall be 9189
paid together with the one-dollar fee to the clerk or other 9190
issuing agent established in section 1533.13 of the Revised Code. 9191
Each applicant who is a resident of the state and under the age of 9192
sixteen years shall procure a special youth fur taker permit, the 9193

fee for which shall be one-half of the regular fur taker permit 9194
fee and which shall be paid together with the one-dollar ~~as a fee~~ 9195
to the clerk or other issuing agent established in section 1533.13 9196
of the Revised Code. The fur taker permit shall run concurrently 9197
with the hunting license. The money received, other than the ~~one-~~ 9198
~~dollar~~ issuing agent's fee ~~provided for in this section~~, shall be 9199
paid into the state treasury to the credit of the fund established 9200
in section 1533.15 of the Revised Code. 9201

No fur taker permit shall be issued unless it is accompanied 9202
by a written explanation of the law in section 1533.17 of the 9203
Revised Code and the penalty for its violation, including a 9204
description of terms of imprisonment and fines that may be 9205
imposed. 9206

No fur taker permit shall be issued unless the applicant 9207
presents to the agent authorized to issue a fur taker permit a 9208
previously held hunting license or trapping or fur taker permit or 9209
evidence of having held such a license or permit in content and 9210
manner approved by the chief of the division of wildlife, a 9211
certificate of completion issued upon completion of a trapper 9212
education course approved by the chief, or evidence of equivalent 9213
training in content and manner approved by the chief. 9214

No person shall issue a fur taker permit to any person who 9215
fails to present the evidence required by this section. No person 9216
shall purchase or obtain a fur taker permit without presenting to 9217
the issuing agent the evidence required by this section. Issuance 9218
of a fur taker permit in violation of the requirements of this 9219
section is an offense by both the purchaser of the illegally 9220
obtained permit and the clerk or agent who issued the permit. Any 9221
fur taker permit issued in violation of this section is void. 9222

The chief, with approval of the wildlife council, shall adopt 9223
rules prescribing a trapper education course for first-time fur 9224
taker permit buyers and for volunteer instructors. The course 9225

shall consist of subjects that include, but are not limited to, 9226
trapping techniques, animal habits and identification, trapping 9227
tradition and ethics, the trapper and conservation, the law in 9228
section 1533.17 of the Revised Code along with the penalty for its 9229
violation, including a description of terms of imprisonment and 9230
fines that may be imposed, and other law relating to trapping. 9231
Authorized personnel of the division of wildlife or volunteer 9232
instructors approved by the chief shall conduct the courses with 9233
such frequency and at such locations throughout the state as to 9234
reasonably meet the needs of permit applicants. The chief shall 9235
issue a certificate of completion to each person who successfully 9236
completes the course and passes an examination prescribed by the 9237
chief. 9238

Every person, while hunting or trapping fur-bearing animals 9239
on lands of another, shall carry the person's fur taker permit 9240
affixed to the person's hunting license with the person's 9241
signature written across the face of the permit. Failure to carry 9242
such a signed permit constitutes an offense under this section. 9243
The chief shall adopt any additional rules the chief considers 9244
necessary to carry out this section. 9245

The owner and the children of the owner of lands in this 9246
state may hunt or trap fur-bearing animals thereon without a fur 9247
taker permit. The tenant ~~or manager~~ and children of the tenant ~~or~~ 9248
~~manager~~ may hunt or trap fur-bearing animals on lands where they 9249
reside without a fur taker permit. 9250

A fur taker permit is not transferable. No person shall carry 9251
a fur taker permit issued in the name of another person. 9252

A fur taker permit entitles a nonresident to take from this 9253
state fur-bearing animals taken and possessed by the nonresident 9254
as provided by law or division rule. 9255

Sec. 1533.112. Except as provided in this section or unless 9256

otherwise provided by division rule, no person shall hunt ducks, 9257
geese, or brant on the lands of another without first obtaining an 9258
annual wetlands habitat stamp. The annual fee for the wetlands 9259
habitat stamp shall be ~~ten~~ fourteen dollars for each stamp, 9260
together with the one-dollar ~~as a~~ fee to the clerk or other 9261
issuing agent established in section 1533.13 of the Revised Code, 9262
unless the rules adopted under division (B) of section 1533.12 9263
provide for issuance of a wetlands habitat stamp to the applicant 9264
free of charge. 9265

Moneys received from the stamp fee, other than the ~~one-~~ 9266
~~dollar clerk's~~ issuing agent's fee, shall be paid into the state 9267
treasury to the credit of the wetlands habitat fund, which is 9268
hereby established. Moneys shall be paid from the fund on the 9269
order of the director of natural resources for the following 9270
purposes: 9271

(A) Sixty per cent for projects that the division approves 9272
for the acquisition, development, management, or preservation of 9273
waterfowl areas within the state; 9274

(B) Forty per cent for contribution by the division to an 9275
appropriate nonprofit organization for the acquisition, 9276
development, management, or preservation of lands and waters 9277
within the United States or Canada that provide or will provide 9278
habitat for waterfowl with migration routes that cross this state. 9279

No moneys derived from the issuance of wetlands habitat 9280
stamps shall be spent for purposes other than those specified by 9281
this section. All investment earnings of the fund shall be 9282
credited to the fund. 9283

Wetlands habitat stamps shall be furnished by and in a form 9284
prescribed by the chief of the division of wildlife and issued by 9285
clerks and other agents authorized to issue licenses and permits 9286
under section 1533.13 of the Revised Code. The record of stamps 9287

kept by the clerks and other agents shall be uniform throughout 9288
the state, in such form or manner as the director prescribes, and 9289
open at all reasonable hours to the inspection of any person. 9290
Unless otherwise provided by rule, each stamp shall remain in 9291
force until midnight of the thirty-first day of August next 9292
ensuing. Wetlands habitat stamps may be issued in any manner to 9293
any person on any date, whether or not that date is within the 9294
period in which they are effective. 9295

Every person to whom this section applies, while hunting 9296
ducks, geese, or brant, shall carry an unexpired wetlands habitat 9297
stamp that is validated by the person's signature written on the 9298
stamp in ink and shall exhibit the stamp to any enforcement 9299
officer so requesting. No person shall fail to carry and exhibit 9300
the person's stamp. 9301

A wetlands habitat stamp is not transferable. 9302

The chief shall establish a procedure to obtain subject 9303
matter to be printed on the wetlands habitat stamp and shall use, 9304
dispose of, or distribute the subject matter as the chief 9305
considers necessary. The chief also shall adopt rules necessary to 9306
administer this section. 9307

This section does not apply to persons under sixteen years of 9308
age nor to persons exempted from procuring a hunting license under 9309
section 1533.10 or division (A) of section 1533.12 of the Revised 9310
Code. 9311

Sec. 1533.12. (A) Every person on active duty in the armed 9312
forces of the United States, while on leave or furlough, may take 9313
or catch fish of the kind lawfully permitted to be taken or caught 9314
within the state, may hunt any wild bird or wild quadruped 9315
lawfully permitted to be hunted within the state, and may trap 9316
fur-bearing animals lawfully permitted to be trapped within the 9317
state, without procuring a fishing license, a hunting license, a 9318

fur taker permit, or a wetlands habitat stamp required by this 9319
chapter, provided that the person shall carry on ~~self~~ the person 9320
when fishing, hunting, or trapping, a card or other evidence 9321
identifying the person as being on active duty in the armed forces 9322
of the United States, and provided that the person is not 9323
otherwise violating any of the hunting, fishing, and trapping laws 9324
of this state. 9325

In order to hunt deer or wild turkey, any such person shall 9326
obtain a special deer or wild turkey permit, as applicable, under 9327
section 1533.11 of the Revised Code. However, the person need not 9328
obtain a hunting license in order to obtain such a permit. 9329

(B) The chief of the division of wildlife shall provide by 9330
rule adopted under section 1531.10 of the Revised Code all of the 9331
following: 9332

(1) Every resident of this state with a disability that has 9333
been determined by the veterans administration to be permanently 9334
and totally disabling, who receives a pension or compensation from 9335
the veterans administration, and who received an honorable 9336
discharge from the armed forces of the United States, and every 9337
veteran to whom the registrar of motor vehicles has issued a set 9338
of license plates under section 4503.41 of the Revised Code, shall 9339
be issued an annual fishing license, hunting license, fur taker 9340
permit, deer or wild turkey permit, or wetlands habitat stamp, or 9341
any combination of those licenses, permits, and stamp, free of 9342
charge when application is made to the chief in the manner 9343
prescribed by and on forms provided by the chief. 9344

(2) Every resident of the state who ~~is sixty six years of age~~ 9345
~~or older~~ was born on or before December 31, 1937, shall be issued 9346
an annual fishing license, hunting license, fur taker permit, deer 9347
or wild turkey permit, or wetlands habitat stamp, or any 9348
combination of those licenses, permits, and stamp, free of charge 9349
when application is made to the chief in the manner prescribed by 9350

and on forms provided by the chief. 9351

(3) Every resident of state or county institutions, 9352
charitable institutions, and military homes in this state shall be 9353
issued an annual fishing license free of charge when application 9354
is made to the chief in the manner prescribed by and on forms 9355
provided by the chief. 9356

(4) Any mobility impaired or blind person, as defined in 9357
section 955.011 of the Revised Code, who is a resident of this 9358
state and who is unable to engage in fishing without the 9359
assistance of another person shall be issued an annual fishing 9360
license free of charge when application is made to the chief in 9361
the manner prescribed by and on forms provided by the chief. The 9362
person who is assisting the mobility impaired or blind person may 9363
assist in taking or catching fish of the kind permitted to be 9364
taken or caught without procuring the license required under 9365
section 1533.32 of the Revised Code, provided that only one line 9366
is used by both persons. 9367

(5) As used in division (B)(5) of this section, "prisoner of 9368
war" means any regularly appointed, enrolled, enlisted, or 9369
inducted member of the military forces of the United States who 9370
was captured, separated, and incarcerated by an enemy of the 9371
United States. 9372

Any person who has been a prisoner of war, was honorably 9373
discharged from the military forces, and is a resident of this 9374
state shall be issued an annual fishing license, hunting license, 9375
fur taker permit, or wetlands habitat stamp, or any combination of 9376
those licenses, permits, and stamp, free of charge when 9377
application is made to the chief in the manner prescribed by and 9378
on forms provided by the chief. 9379

(C) The chief shall adopt rules pursuant to section 1531.08 9380
of the Revised Code designating not more than two days, which need 9381

not be consecutive, in each year as "free sport fishing days" on 9382
which any resident may exercise the privileges accorded the holder 9383
of a fishing license issued under section 1533.32 of the Revised 9384
Code without procuring such a license, provided that the person is 9385
not otherwise violating any of the fishing laws of this state. 9386

Sec. 1533.13. Hunting and fishing licenses, wetlands habitat 9387
stamps, deer and wild turkey permits, and fur taker permits shall 9388
be issued by the clerk of the court of common pleas, village and 9389
township clerks, and other authorized agents designated by the 9390
chief of the division of wildlife. When required by the chief, a 9391
clerk or agent shall give bond in the manner provided by the 9392
chief. All bonds, reports, except records prescribed by the 9393
auditor of state, and moneys received by those persons shall be 9394
handled under rules adopted by the director of natural resources. 9395

The premium of any bond prescribed by the chief under this 9396
section may be paid by the chief. Any person who is designated and 9397
authorized by the chief to issue licenses, stamps, and permits as 9398
provided in this section, except the clerk of the court of common 9399
pleas and the village and township clerks, shall pay to the chief 9400
a premium in an amount that represents the person's portion of the 9401
premium paid by the chief under this section, which amount shall 9402
be established by the chief and approved by the wildlife council 9403
created under section 1531.03 of the Revised Code. The chief shall 9404
pay all moneys that the chief receives as premiums under this 9405
section into the state treasury to the credit of the wildlife fund 9406
created under section 1531.17 of the Revised Code. 9407

Every authorized agent, for the purpose of issuing hunting 9408
and fishing licenses, deer and wild turkey permits, and fur taker 9409
permits, may administer oaths to and take affidavits from 9410
applicants for the licenses or permits when required. An 9411
authorized agent may appoint deputies to perform any acts that the 9412

agent is authorized to perform, consistent with division rules. 9413

Every applicant for a hunting or fishing license, deer or 9414
wild turkey permit, or fur taker permit, unless otherwise provided 9415
by division rule, shall make and subscribe an affidavit setting 9416
forth the applicant's name, age, weight, height, occupation, place 9417
of residence, personal description, and citizenship. The clerk or 9418
other agent authorized to issue licenses, stamps, and permits 9419
shall charge each applicant a fee of one dollar for taking the 9420
affidavit and issuing the license, stamp, or permit unless a 9421
different fee for the issuance of a fishing license is established 9422
in division rule as authorized by section 1533.32 of the Revised 9423
Code. The application, license, permit, and other blanks required 9424
by this section shall be prepared and furnished by the chief, in 9425
such form as the chief provides, to the clerk or other agent 9426
authorized to issue them. The licenses and permits shall be issued 9427
to applicants by the clerk or other agent. The record of licenses 9428
and permits kept by the clerk and other authorized agents shall be 9429
uniform throughout the state and in such form or manner as the 9430
auditor of state prescribes and shall be open at all reasonable 9431
hours to the inspection of any person. Unless otherwise provided 9432
by division rule, each hunting license, deer or wild turkey 9433
permit, and fur taker permit issued shall remain in force until 9434
midnight of the thirty-first day of August next ensuing. 9435
Application for any such license or permit may be made and a 9436
license or permit issued prior to the date upon which it becomes 9437
effective. 9438

The chief may require an applicant who wishes to purchase a 9439
license, stamp, or permit by mail or telephone to pay a nominal 9440
fee for postage and handling. 9441

The court before whom a violator of any laws or division 9442
rules for the protection of wild animals is tried, as a part of 9443
the punishment, shall revoke the license, stamp, or permit of any 9444

person convicted. The license, stamp, or permit fee paid by that 9445
person shall not be returned to the person. The person shall not 9446
procure or use any other license, stamp, or permit or engage in 9447
hunting wild animals or trapping fur-bearing animals during the 9448
period of revocation as ordered by the court. 9449

No person under sixteen years of age shall engage in hunting 9450
unless accompanied by the person's parent or another adult person. 9451

Sec. 1533.151. The chief of the division of wildlife, with 9452
the approval of the director of natural resources, ~~is hereby~~ 9453
~~authorized to~~ may print and issue stamps portraying wild animals 9454
of the state. This stamp shall be identified as a wildlife 9455
conservation stamp ~~and the~~. The fee for each stamp shall be ~~five~~ 9456
~~dollars not more than the fee for a wetlands habitat stamp issued~~ 9457
under section 1533.112 of the Revised Code together with the 9458
one-dollar fee to the issuing agent established in section 1533.13 9459
of the Revised Code unless otherwise provided by division rule. 9460

The purchase of wildlife conservation stamps shall provide no 9461
privileges to the purchaser, but merely recognizes ~~such~~ the person 9462
as voluntarily contributing to the management, protection, and the 9463
perpetuation of the wildlife resources of the state. All moneys 9464
received from the sale of wildlife conservation stamps shall be 9465
paid into the state treasury to the credit of the nongame and 9466
endangered wildlife fund to be used exclusively by the division of 9467
wildlife for the purposes outlined in section ~~1533.15~~ 1531.26 of 9468
the Revised Code ~~and for the management of all forms of wildlife~~ 9469
~~for its ecological and non consumptive recreational value.~~ 9470

Sec. 1533.19. Except as otherwise provided by division rule, 9471
recognized field trial clubs may shoot domestically raised quails, 9472
chukar partridges, ducks, pheasants, or other game birds and 9473
common pigeons at any time during the daylight hours from the 9474

first day of September to the thirtieth day of April of the 9475
following year, both dates inclusive. Such domestically raised 9476
quails, chukar partridges, ducks, pheasants, and other game birds 9477
shall be banded prior to release and approved by the division of 9478
wildlife for field trial use, provided that permission for the 9479
holding of such a trial shall be obtained from the division. 9480
Permission shall be requested in writing at least thirty days in 9481
advance of the trial. The request shall contain the name of the 9482
recognized field trial club and the names of its officers, the 9483
date and location of the trial, and the name of the licensed 9484
breeders from whom the quails, chukar partridges, ducks, 9485
pheasants, or other game birds will be obtained. The division may 9486
grant a written permit when it is satisfied that the trial is a 9487
bona fide one conducted by a bona fide club under this section. 9488
When an application is approved, a permit shall be issued after 9489
the payment of a fee of ~~twenty-five~~ fifty dollars for each day 9490
upon which the trials are conducted. Participants in such trials 9491
need not possess a hunter's license while participating in the 9492
trials. The division shall supervise all such trials and shall 9493
enforce all laws and division rules governing them. If unbanded 9494
quails, chukar partridges, ducks, pheasants, or other game birds 9495
are accidentally shot during such trials, they immediately shall 9496
be replaced by the club by the releasing of an equal number of 9497
live quails, chukar partridges, ducks, pheasants, or other game 9498
birds under the supervision of the division. 9499

Sec. 1533.23. No person shall deal in or buy green or dried 9500
furs, skins, or parts thereof, taken from fur-bearing animals of 9501
the state, except domesticated rabbits, without a fur dealer's 9502
permit. Every applicant for a fur dealer's permit shall make and 9503
subscribe a statement setting forth ~~his~~ the applicant's name, 9504
place of residence, and whom ~~he~~ the applicant represents. Every 9505
applicant for a dealer's permit who is a nonresident of the state, 9506

or who is a resident of the state and is an agent or 9507
representative of a nonresident person, firm, or corporation, 9508
shall pay an annual fee of two hundred dollars to the chief of the 9509
division of wildlife issuing such permit, and every applicant for 9510
a dealer's permit who is a resident of the state shall pay an 9511
annual fee of ~~fifty~~ seventy-five dollars to the chief ~~of the~~ 9512
~~division of wildlife~~ issuing such permit, ~~and every.~~ Every fur 9513
dealer shall operate under such additional ~~regulations~~ rules as 9514
are provided by the chief ~~of the division of wildlife~~. The chief 9515
shall pay ~~such~~ the fees into the state treasury to the credit of 9516
the fund created by section 1533.15 of the Revised Code for the 9517
use of the division of wildlife in the purchase, preservation, 9518
protection, and stocking of fur-bearing animals and for the 9519
necessary clerical help and forms required by this section and 9520
section 1533.24 of the Revised Code. 9521

All permits shall be procured from the chief and the 9522
application, license, and other blanks required by this section 9523
and section 1533.24 of the Revised Code shall be in such form as 9524
the chief prescribes. Each such permit shall expire on the 9525
thirtieth day of April next after its issuance. 9526

Sec. 1533.301. Any person may apply for a permit to transport 9527
fish that are for sale, sold, or purchased. The chief of the 9528
division of wildlife shall issue an annual permit granting the 9529
applicant the privilege to transport such fish, upon filing of an 9530
application on a form prescribed by the chief and payment of a fee 9531
of ~~fifty~~ sixty-five dollars. No person shall transport any fish or 9532
part thereof that is for sale, sold, or purchased, whether 9533
acquired in or outside this state, unless the consignor has a 9534
permit ~~issued to him~~ for the calendar year in which the fish is 9535
transported, except that no such permit is required for any of the 9536
following: 9537

(A) Fish transported from a point outside this state to 9538
another point outside this state if the fish are not unloaded in 9539
this state. A fish is not to be considered unloaded for purposes 9540
of this section if it remains under the control of a common 9541
carrier. 9542

(B) Fish being transported by a person holding a valid 9543
license under section 1533.34 of the Revised Code from the place 9544
of taking to ~~his~~ the person's usual place of processing or 9545
temporary storage as designated by ~~him~~ the person in the 9546
application for the license under that section; 9547

(C) Fish being transported from a premises designated in a 9548
valid permit issued under section 1533.631 of the Revised Code to 9549
a premises where fish are to be sold at retail, sold for immediate 9550
consumption, or consumed if inspection of the designated premises 9551
as required by that section has not been denied during the 9552
preceding thirty days; 9553

(D) Any quantity of fish the total weight of which does not 9554
exceed five hundred pounds in one vehicle; 9555

(E) Minnows for which a permit is required under section 9556
1533.40 of the Revised Code. 9557

If a fish for which a permit is required under this section 9558
is transported in this state from a consignor who does not have a 9559
valid permit at the time of transportation, or if such a fish is 9560
transported in this state from a consignor who has a valid permit 9561
at the time of transportation, but the fish is part of the 9562
contents of a box, package, or receptacle that was or could be the 9563
basis for conviction of a violation of this chapter or a division 9564
rule, the fish may be seized by any law enforcement officer 9565
authorized by section 1531.13 of the Revised Code to enforce laws 9566
and division rules, and the fish shall escheat to the state unless 9567
a court of this state makes a specific finding that the consignor 9568

at the time of seizure had a valid permit under this section 9569
~~1533.301 of the Revised Code~~ and that the fish are lawful under 9570
the requirements of this chapter or a division rule relating 9571
thereto. 9572

A fish for which a permit is required under this section may 9573
be transported only if each box, package, or other receptacle 9574
bears a label showing the total weight in pounds, the species of 9575
the fish, the name of the consignor and consignee, the initial 9576
point of billing, the destination, and a statement that each 9577
species of fish by weight in the box, package, or other receptacle 9578
that are undersized under ~~the provisions of~~ section 1533.63 of the 9579
Revised Code or division rule is ten per cent or less or is in 9580
excess of ten per cent, whichever the fact may be. If fish are not 9581
boxed or packaged, each compartment of a tank or other receptacle 9582
shall be considered a separate receptacle, but in lieu of a label 9583
on the compartment or tank a written statement containing the same 9584
information required to be contained on a label, and clearly 9585
identifying the tank or receptacle concerned, may be carried in 9586
the vehicle. Species may be designated in any manner, but the 9587
label also shall bear either the common name indicated in section 9588
1533.63 of the Revised Code or the scientific name contained in 9589
section 1531.01 of the Revised Code. The consignor shall ascertain 9590
that labels are attached or statements carried as required herein 9591
and that the facts stated thereon are true. 9592

The permit required by this section may be suspended by the 9593
chief for a period not to exceed five days upon conviction of the 9594
permittee of a violation of this chapter or Chapter 1531. of the 9595
Revised Code or a division rule if the permittee has been 9596
convicted of another such violation during the preceding 9597
twelve-month period. If the permittee has had two or more such 9598
convictions during the twelve-month period preceding such a 9599
conviction, ~~his~~ the permittee's permit may be suspended as 9600

provided herein for a period not to exceed twenty days. A permit 9601
is invalid during the period of suspension, but in no case is a 9602
permit invalid until fifteen days after mailing by certified mail 9603
a notice of the rule of suspension by the chief. 9604

The chief may not suspend more than one permit of the same 9605
permittee, or suspend a permit of the same permittee more than 9606
once, for convictions resulting from violations that occur in a 9607
load in one vehicle. 9608

A driver or other person in charge of a vehicle transporting 9609
fish that are for sale, sold, or purchased, upon demand by any law 9610
enforcement officer authorized by section 1531.13 of the Revised 9611
Code to enforce laws and division rules, shall stop and open the 9612
vehicle and allow inspection of the load, and any box, package, or 9613
receptacle, and the contents thereof, for the purpose of 9614
determining whether this chapter or a division rule is being 9615
violated. 9616

The word "fish" in the English language, at least eight 9617
inches high and maintained in a clear, conspicuous, and legible 9618
condition at all times, shall appear on both sides of the vehicle 9619
body of all vehicles transporting fresh water fish in this state 9620
when the fish are for sale or sold, except those fish exempt from 9621
a transportation permit in divisions (A), (B), and (E) of this 9622
section. 9623

The chief may refuse to issue a permit to any person whose 9624
purpose in applying for the permit is to allow it to be used by 9625
another person to whom a permit has been refused or revoked. The 9626
chief also may revoke a person's permit when it is used for that 9627
purpose. 9628

No civil action may be brought in any court in the state for 9629
the value or agreed price of fish that have escheated to the state 9630
under this section. 9631

No person shall fail to comply with any provision of this section or a division rule adopted pursuant thereto.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension, no person shall use or engage in hauling or transporting fish with equipment owned, used, or controlled at the time of conviction by the permittee whose permit has been suspended.

Sec. 1533.32. Except as provided in this section or division (A) or (C) of section 1533.12 of the Revised Code, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the division of wildlife shall comply with the license requirements set forth in this section.

The fee for an annual license shall be ~~twenty-three~~ 9663
thirty-nine dollars, unless otherwise provided by division rule, 9664
for a resident of a state that is not a party to an agreement 9665
under section 1533.91 of the Revised Code. The fee for an annual 9666
license shall be ~~fourteen~~ eighteen dollars, unless otherwise 9667
provided by division rule, for a resident of a state that is a 9668
party to such an agreement. The fee for an annual license for 9669
residents of this state shall be ~~fourteen~~ eighteen dollars unless 9670
otherwise provided by division rule or unless the rules adopted 9671
under division (B) of section 1533.12 of the Revised Code provide 9672
for issuance of a resident fishing license to the applicant free 9673
of charge. 9674

Any person under the age of sixteen years may take or catch 9675
frogs and turtles and take or catch fish by angling without a 9676
license. ~~Any~~ Except as provided in rules adopted under division 9677
(B)(2) of section 1533.12 of the Revised Code, each applicant who 9678
is a resident of this state and who at the time of application is 9679
sixty-six years of age or older ~~may take or catch frogs and~~ 9680
~~turtles without~~ shall procure a special senior fishing license, 9681
the fee for which shall be one-half of the annual resident fishing 9682
license fee. 9683

The chief of the division of wildlife may issue a tourist's 9684
license expiring three days from the effective date of the license 9685
to a resident of a state that is not a party to an agreement under 9686
section 1533.91 of the Revised Code. The fee for a tourist's 9687
license shall be ~~fourteen~~ eighteen dollars unless otherwise 9688
provided by division rule. 9689

The chief shall adopt rules under section 1531.10 of the 9690
Revised Code providing for the issuance of a one-day fishing 9691
license to a resident of this state or of any other state. The fee 9692
for such a license shall be ~~forty~~ fifty-five per cent of the 9693
amount established under this section for a tourist's license, 9694

rounded up to the nearest whole dollar. A one-day fishing license 9695
shall allow the holder to take or catch fish by angling in the 9696
waters in the state, engage in fishing in those waters, or take or 9697
catch frogs or turtles in those waters for one day without 9698
obtaining an annual license or a tourist's license under this 9699
section. At the request of a holder of a one-day fishing license 9700
who wishes to obtain an annual license, a clerk or agent 9701
authorized to issue licenses under section 1533.13 of the Revised 9702
Code, not later than the last day on which the one-day license 9703
would be valid if it were an annual license, shall credit the 9704
amount of the fee paid for the one-day license toward the fee 9705
charged for the annual license if so authorized by the chief. The 9706
clerk or agent shall issue the annual license upon presentation of 9707
the one-day license and payment of a fee in an amount equal to the 9708
difference between the fee for the annual license and the fee for 9709
the one-day license. 9710

A fee of one dollar for each license issued under this 9711
section shall be paid to the issuing clerk or agent in accordance 9712
with section 1533.13 of the Revised Code unless otherwise provided 9713
by division rule. 9714

Unless otherwise provided by division rule, each annual 9715
license shall begin on the first day of March of the current year 9716
and expire on the last day of February of the following year. 9717

No person shall alter a fishing license or possess a fishing 9718
license that has been altered. 9719

No person shall procure or attempt to procure a fishing 9720
license by fraud, deceit, misrepresentation, or any false 9721
statement. 9722

Owners of land over, through, upon, or along which any water 9723
flows or stands, except where the land is in or borders on state 9724
parks or state-owned lakes, together with the members of the 9725

immediate families of such owners, may take frogs and turtles and 9726
may take or catch fish of the kind permitted to be taken or caught 9727
therefrom without procuring a license provided for in this 9728
section. This exemption extends to tenants actually residing upon 9729
such lands and to the members of the immediate families of the 9730
tenants. Residents of state or county institutions, charitable 9731
institutions, and military homes in this state may take frogs and 9732
turtles without procuring the required license, provided that a 9733
member of the institution or home has an identification card, 9734
which shall be carried on that person when fishing. 9735

Every fisher required to be licensed, while fishing or taking 9736
or attempting to take frogs or turtles, shall carry the license 9737
and exhibit it to any person. Failure to so carry and exhibit the 9738
license constitutes an offense under this section. 9739

Sec. 1533.35. (A) Commercial fishing devices shall be 9740
annually licensed as follows: 9741

(1) Trap and fyke nets, for the first twenty nets or any 9742
portion thereof, eight hundred dollars; and for each additional 9743
group of ten such nets or any portion thereof, four hundred 9744
dollars; 9745

(2) For each seine of one hundred fifty rods or less in 9746
length other than an inland fishing district seine, four hundred 9747
dollars; 9748

(3) For each seine over one hundred fifty rods in length 9749
other than an inland fishing district seine, six hundred dollars; 9750

(4) For each inland fishing district seine, one hundred 9751
dollars; 9752

(5) For each carp apron, one hundred dollars; 9753

(6) For one trotline with seventy hooks or less attached 9754
thereto, twenty dollars; 9755

(7) For each trotline, or trotlines, with a total of more than seventy hooks attached thereto, one hundred dollars;

(8) For each dip net, one hundred dollars.

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.

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.

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.

(B) Royalty fees are hereby established ~~as set forth~~ on the following species of fish when taken commercially: catfish, white bass, and yellow perch.

The amount of the royalty fees shall be as follows: on the species taken for which an allowable catch or quota has been established by division rule, ~~two~~ five cents per pound. On the species taken for which an allowable catch or quota has not been established by division rule, ~~one cent~~ two cents per pound ~~on that portion taken that exceeds one half of the previous year's taking of the species.~~

~~For the purpose of this section, the previous year's taking shall be the amount reported for that previous year by the license holder to the division pursuant to reporting procedures set forth in this chapter and Chapter 1531. of the Revised Code.~~

All royalty fees established or provided for in this section

shall be paid by the license holder to the division. No person may 9786
be issued a commercial fishing license until all royalty fees due 9787
from that person for the preceding fishing season have been paid 9788
in full. The chief may request the attorney general to recover any 9789
royalty fee or amount thereof that is not paid by the opening date 9790
of the next fishing season, and the attorney general shall 9791
commence appropriate legal proceedings to recover the unpaid fee 9792
or amount. 9793

All commercial fishing license moneys and all other fees 9794
collected from commercial ~~fishermen~~ fishers shall be deposited in 9795
the state treasury in accordance with section 1533.33 of the 9796
Revised Code. 9797

No person shall fail to comply with any provision of this 9798
section or a division rule adopted pursuant to it. 9799

In addition to other penalties provided in the Revised Code, 9800
the license of any person who is convicted of one or more 9801
violations of this section shall be suspended upon the conviction 9802
by operation of law for a period of eighteen fishing season months 9803
immediately following the conviction. 9804

During any period of suspension, no person shall use or 9805
engage in fishing with commercial gear owned, used, or controlled 9806
at the time of conviction by the licensee whose license has been 9807
suspended. 9808

Sec. 1533.40. Each person, firm, partnership, association, or 9809
corporation ~~which~~ that buys, sells, or deals in minnows, crayfish, 9810
or hellgrammites or collects the listed species for sale shall 9811
obtain, annually, from the chief of the division of wildlife a 9812
permit and shall operate under such rules as the chief ~~of the~~ 9813
~~division of wildlife prescribes~~ adopts. Such A permit shall be 9814
issued upon application and the payment of a fee of ~~twenty-five~~ 9815
forty dollars. This permit expires at midnight, on the 9816

thirty-first day of December ~~31~~. Nonresidents engaging in the 9817
collecting, seining, or picking of minnows, crayfish, or 9818
hellgrammites for bait shall have a nonresident fishing license as 9819
prescribed in section 1533.32 of the Revised Code. 9820

Sec. 1533.54. No person shall draw, set, place, locate, 9821
maintain, or possess a pound net, crib net, trammel net, fyke net, 9822
set net, seine, bar net, or fish trap, or any part thereof, or 9823
throw or hand line, with more than three hooks attached thereto, 9824
or any other device for catching fish, except a line with not more 9825
than three hooks attached thereto or lure with not more than three 9826
sets of three hooks each, in the inland fishing district of this 9827
state, except for taking carp, mullet, sheepshead, and grass pike 9828
as provided in section 1533.62 of the Revised Code, and except as 9829
provided in section 1533.60 of the Revised Code, or as otherwise 9830
provided for by division rule. No person shall catch or kill a 9831
fish in that fishing district with what are known as bob lines, 9832
trotlines, or float lines, or by grabbing with the hands, or by 9833
spearing or shooting, or with any other device other than by 9834
angling. In the waters of the inland fishing district, except 9835
those lakes, harbors, and reservoirs controlled by the state, a 9836
trotline may be used with not more than fifty hooks, and no two 9837
hooks less than three feet apart, by the owner or person having 9838
the owner's consent in that part of the stream bordering on or 9839
running through that owner's lands. 9840

Notwithstanding this section, any resident who is licensed to 9841
fish with nets in the Ohio river may possess fish nets for the 9842
sole purpose of storage, repair, drying, and tarring in the area 9843
between United States route fifty and the Ohio river from the 9844
Indiana state line to Cincinnati, Ohio, and in the area between 9845
United States route fifty-two and the Ohio river from Cincinnati, 9846
Ohio, to Chesapeake, Ohio, and in the area between state route 9847
seven and the Ohio river from Chesapeake, Ohio, to East Liverpool, 9848

Ohio. 9849

Any person possessing a net in this reserve district shall 9850
have an Ohio permit for each net in ~~his~~ the person's possession. 9851
The permit shall be issued annually by the chief of the division 9852
of wildlife upon application of the owner of the net and 9853
submission of evidence by ~~him~~ the owner of ~~his~~ possession of a 9854
valid fishing license permitting ~~him~~ the owner to fish with nets 9855
in the Ohio river, and the payment of ~~ten~~ fifty dollars for each 9856
net for which an application is made and a permit is issued. The 9857
permit shall expire at twelve midnight on the fifteenth day of 9858
March of each year. 9859

Sec. 1533.631. Any person may apply for a permit to handle 9860
commercial fish, or other fish that may be bought or sold under 9861
the Revised Code or division rule, at wholesale. The chief of the 9862
division of wildlife shall issue an annual permit granting the 9863
applicant the privilege to handle such fish at wholesale at one or 9864
more designated premises upon filing of an application on a form 9865
prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five 9866
dollars. No person or ~~his~~ a person's agent shall handle at 9867
wholesale any fresh water fish or part thereof unless a permit has 9868
been issued for the calendar year in which the fish is handled at 9869
wholesale for the premises at which the fish is handled. 9870

A fish is handled at wholesale for purposes of this section 9871
when it is on a premises within the state and is being held, 9872
stored, handled, or processed for the purpose of sale to a person 9873
who ordinarily resells the fish. 9874

The permit required by this section shall be issued subject 9875
to the right of entry and inspection of the designated premises of 9876
the permittee by any law enforcement officer authorized by section 9877
1531.13 of the Revised Code to enforce the laws and rules of the 9878
division of wildlife. Such an officer may enter and inspect the 9879

designated premises and any box, package, or receptacle, and the 9880
contents thereof, for the purpose of determining whether any 9881
provision of this chapter or Chapter 1531. of the Revised Code or 9882
division rule is being violated. 9883

No person holding a permit under this section shall remove a 9884
label required by section 1533.301 of the Revised Code unless the 9885
box, package, or receptacle bearing the label has been opened or 9886
unless the label is replaced with another label that meets the 9887
requirements of that section. 9888

No person shall fail to comply with any provision of this 9889
section or division rule adopted pursuant to it. 9890

In addition to other penalties provided in the Revised Code, 9891
the permit of any person who is convicted of two violations of 9892
this section that occurred within a twelve-month period is 9893
suspended upon the second such conviction by operation of law for 9894
a period of five fishing season days immediately following that 9895
conviction. 9896

In addition to other penalties provided in the Revised Code, 9897
the permit of any person who is convicted of three or more 9898
violations of this section that occurred within a twelve-month 9899
period is suspended upon the third or subsequent such conviction 9900
by operation of law for a period of twenty fishing season days 9901
immediately following that conviction. 9902

During any period of suspension, no person shall use or 9903
engage in handling commercial fish at wholesale with equipment or 9904
facilities owned, used, or controlled at the time of conviction by 9905
the permittee whose permit has been suspended. 9906

Sec. 1533.632. (A) As used in this section: 9907

(1) "Aquaculture" means a form of agriculture that involves 9908
the propagation and rearing of aquatic species in controlled 9909

environments under private control, including, but not limited to, 9910
for the purpose of sale for consumption as food. 9911

(2) "Aquaculture species" means any aquatic species that may 9912
be raised through aquaculture that is either a class A aquaculture 9913
species or a class B aquaculture species. 9914

(3) "Class A aquaculture species" includes all of the 9915
following: 9916

(a) Trout and salmon (*Onchorhynchus* sp., *Salmo* sp., 9917
Salvelinus sp.); 9918

(b) Walleye (*Stizostedion vitreum*); 9919

(c) Sauger (*Stizostedion canadense*); 9920

(d) Bluegill (*Lepomis machrochirus*); 9921

(e) Redear sunfish (*Lepomis microlophus*); 9922

(f) Green sunfish (*Lepomis cyanellus*); 9923

(g) White crappie (*Pomoxis annularis*); 9924

(h) Black crappie (*Pomoxis nigromaculatus*); 9925

(i) Blue catfish (*Ictalurus furcatus*); 9926

(j) Any species added by rule under division (B) of this 9927
section or listed as commercial fish under section 1531.01 of the 9928
Revised Code except white perch (*Morone americana*). 9929

(4) "Class B aquaculture species" includes any species, 9930
except for class A aquaculture species, designated as such by the 9931
chief of the division of wildlife. 9932

(5) "Aquaculture production facility" means a facility used 9933
for aquaculture. 9934

(B) The chief, in accordance with Chapter 119. of the Revised 9935
Code, shall adopt rules for the regulation of aquaculture and may 9936
issue permits to persons wishing to engage in aquaculture for the 9937

production of aquaculture species. Rules adopted under this 9938
section shall ensure the protection and preservation of the 9939
wildlife and natural resources of this state. The legal length and 9940
weight limitations established under section 1533.63 of the 9941
Revised Code do not apply to class A or class B aquaculture 9942
species. 9943

A permit may be issued upon application to any person who 9944
satisfies the chief that the person has suitable equipment, of 9945
which ~~he~~ the person is the owner or lessee, to engage in 9946
aquaculture for a given aquaculture species or group of 9947
aquaculture species. Each permit shall be in such form as the 9948
chief prescribes. The permits shall be classified as either class 9949
A or class B. A class A permit shall be required for all class A 9950
aquaculture species that are specified in this section or 9951
designated by rule as a class A aquaculture species. Class B 9952
permits shall be issued on a case-by-case basis. In determining 9953
whether to issue a class B permit, the chief shall take into 9954
account the species for which the class B permit is requested, the 9955
location of the aquaculture production facility, and any other 9956
information determined by the chief to be necessary to protect the 9957
wildlife and natural resources of this state. The annual fee for a 9958
class A permit shall be fifty dollars unless otherwise provided by 9959
rule by the chief. The annual fee for a class B permit shall be 9960
set by the chief at a level between one hundred and five hundred 9961
dollars. In determining the fee to be charged for a class B 9962
permit, the chief shall take into account the additional costs to 9963
the division for the inspection of aquaculture facilities used to 9964
raise a given class B aquaculture species. 9965

The chief may revoke a permit upon a determination that the 9966
person to whom the permit was issued has violated any rule adopted 9967
under this section. The permit shall be reissued upon a showing by 9968
the person that ~~he~~ the person is in compliance with the rules 9969

adopted under this section. A holder of an aquaculture permit may 9970
receive a permit issued under section 1533.301, ~~1533.39~~, or 9971
1533.40 of the Revised Code without payment of the fee for that 9972
permit if the conditions for the issuance of the permit have been 9973
met. 9974

(C) No person shall knowingly sell any aquatic species under 9975
an aquaculture permit issued under this section that was not 9976
raised in an aquaculture production facility. In addition to any 9977
other penalties prescribed for violation of this division, the 9978
chief may revoke the permit of any person convicted of a violation 9979
of this division for any period of time ~~he~~ the chief considers 9980
necessary. 9981

(D) No person who does not hold a current valid aquaculture 9982
permit shall knowingly sell an aquaculture species while claiming 9983
to possess an aquaculture permit. 9984

Sec. 1533.71. Unless otherwise provided by division rule, any 9985
person desiring to engage in the business of raising and selling 9986
game birds, game quadrupeds, reptiles, amphibians, or fur-bearing 9987
animals in a wholly enclosed preserve of which the person is the 9988
owner or lessee, or to have game birds, game quadrupeds, reptiles, 9989
amphibians, or fur-bearing animals in captivity, shall apply in 9990
writing to the division of wildlife for a license to do so. 9991
9992

The division, when it appears that the application is made in 9993
good faith and upon the payment of the fee for each license, ~~shall~~ 9994
may issue to the applicant any of the following licenses that may 9995
be applied for: 9996

(A) "Commercial propagating license" permitting the licensee 9997
to propagate game birds, game quadrupeds, reptiles, amphibians, or 9998
fur-bearing animals in the wholly enclosed preserve the location 9999
of which is stated in the license and the application therefor, 10000

and to sell the propagated game birds, game quadrupeds, reptiles, 10001
amphibians, or fur-bearing animals and ship them from the state 10002
alive at any time, and permitting the licensee and the licensee's 10003
employees to kill the propagated game birds, game quadrupeds, or 10004
fur-bearing animals and sell the carcasses for food subject to 10005
sections 1533.70 to 1533.80 of the Revised Code. The fee for such 10006
a license is ~~twenty-five~~ forty dollars per annum. 10007

(B) "Noncommercial propagating license" permitting the 10008
licensee to propagate game birds, game quadrupeds, reptiles, 10009
amphibians, or fur-bearing animals and to hold the animals in 10010
captivity. Game birds, game quadrupeds, reptiles, amphibians, and 10011
fur-bearing animals propagated or held in captivity by authority 10012
of a noncommercial propagating license are for the licensee's own 10013
use and shall not be sold. The fee for such a license is ~~ten~~ 10014
twenty-five dollars per annum. 10015

(C) A free "raise to release license" permitting duly 10016
organized clubs, associations, or individuals approved by the 10017
division to engage in the raising of game birds, game quadrupeds, 10018
or fur-bearing animals for release only and not for sale or 10019
personal use. 10020

Except as provided by law, no person shall possess game 10021
birds, game quadrupeds, or fur-bearing animals in closed season, 10022
provided that municipal or governmental zoological parks are not 10023
required to obtain the licenses provided for in this section. 10024

All licenses issued under this section shall expire on the 10025
fifteenth day of March of each year. 10026

The chief of the division of wildlife shall pay all moneys 10027
received as fees for the issuance of licenses under this section 10028
into the state treasury to the credit of the fund created by 10029
section 1533.15 of the Revised Code for the use of the division in 10030
the purchase, preservation, and protection of wild animals and for 10031

the necessary clerical help and forms required by sections 1533.70 10032
to 1533.80 of the Revised Code. 10033

This section does not authorize the taking or the release for 10034
taking of the following: 10035

(1) Game birds, without first obtaining a commercial bird 10036
shooting preserve license issued under section 1533.72 of the 10037
Revised Code; 10038

(2) Game or nonnative wildlife, without first obtaining a 10039
wild animal hunting preserve license issued under section 1533.721 10040
of the Revised Code. 10041

Sec. 1533.82. (A) On receipt of a notice pursuant to section 10042
3123.43 of the Revised Code, the chief of the division of wildlife 10043
shall comply with sections 3123.41 to 3123.50 of the Revised Code 10044
and any applicable rules adopted under section 3123.63 of the 10045
Revised Code with respect to a license, permit, or certificate 10046
issued pursuant to section 1533.23, 1533.34, 1533.342, ~~1533.39,~~ 10047
1533.40, 1533.51, 1533.631, 1533.71, 1533.72, 1533.81, 1533.88, or 10048
1533.881 of the Revised Code. 10049

(B) On receipt of a notice pursuant to section 3123.62 of the 10050
Revised Code, the chief shall comply with that section and any 10051
applicable rules adopted under section 3123.63 of the Revised Code 10052
with respect to a license, permit, or stamp issued pursuant to 10053
section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the 10054
Revised Code. 10055

Sec. 1551.11. (A) To achieve the purposes of ~~this chapter~~ 10056
sections 1551.01 to 1551.25 of the Revised Code, the director of 10057
development may: 10058

(1) Identify, plan, organize, initiate, and sponsor studies, 10059
research, and experimental, pilot, and demonstration facilities 10060
and projects ~~which~~ that would lead to the development and more 10061

efficient utilization of present, new, or alternative energy 10062
sources in ~~the~~ this state, to the conservation of energy, to the 10063
attraction of federal and other development funding in emerging 10064
and established national or state priority areas, or to the 10065
enhancement of the economic development of the state; 10066

(2) Promote, assist, and provide financial assistance for the 10067
development of nonprofit corporations organized and established 10068
under Chapter 1702. of the Revised Code to further the purposes of 10069
this section; 10070

(3) Seek out, apply for, receive, and accept grants, gifts, 10071
contributions, loans, and other assistance in any form from public 10072
and private sources, including assistance from any governmental 10073
agency; 10074

(4) Make grants under division (F) of section 1551.12 of the 10075
Revised Code from funds that are appropriated by the general 10076
assembly and from gifts or grants obtained under division (A)(3) 10077
of this section for the purposes of developing, constructing, or 10078
operating experimental, pilot, and demonstration facilities or 10079
programs which develop, test, or demonstrate more efficient and 10080
environmentally acceptable methods of extracting energy resources; 10081
new concepts, programs, or technology for the conservation of 10082
energy; new concepts, programs, or technology for the efficient 10083
and environmentally acceptable utilization of present, new, or 10084
alternative energy sources; or concepts, programs, or technology 10085
which develop resources of the state. Grants may be made, without 10086
limitation, for projects and programs such as experimental 10087
demonstrations of the use of Ohio coal in processes which would 10088
facilitate its widespread use as a source of energy; experimental 10089
demonstrations of new or improved coal, natural gas, and natural 10090
petroleum extraction techniques and of reclamation techniques at 10091
the extraction sites; experimental demonstrations or development 10092
of solar heating and cooling and potentially energy-efficient 10093

construction in public buildings, schools, offices, commercial 10094
establishments, and residential homes; development of programs or 10095
experimental demonstrations of the utilization of waste products 10096
in energy production and mineral and energy conservation; and 10097
development of programs or experimental demonstrations of 10098
technologies which would permit utility pricing policies which may 10099
reduce the consumer costs of energy. 10100

(5) Enter into agreements with persons and governmental 10101
agencies, in any combination, for the purposes of this section. 10102

(B) Any materials or data submitted to, made available by or 10103
to, or received by the director under division (A) of this 10104
section, division (F) of section 1551.12, or division (B) of 10105
section 1551.15 of the Revised Code, and any information taken 10106
from those materials or data for any purpose, to the extent that 10107
those materials or data consist of trade secrets or other 10108
proprietary information, are not public information or public 10109
documents and shall not be open to public inspection. 10110

(C) The exercise by the director of the powers conferred by 10111
~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code for 10112
the preservation or creation of jobs and employment opportunities 10113
for the people of ~~the~~ this state through the development and 10114
efficient utilization of energy resources of the state is in all 10115
respects for the benefit of the people of the state, and is 10116
determined to be an essential government function and public 10117
purpose of the state. 10118

Sec. 1551.12. The director of development may: 10119

(A) Seek, solicit, or acquire personal property or any 10120
estate, interest, or right in real property, or services, funds, 10121
and other things of value of any kind or character by purchase, 10122
lease, gift, grant, contribution, exchange, or otherwise from any 10123
person or governmental agency to be held, used, and applied in 10124

accordance with and for the purposes of ~~this chapter~~ sections 10125
1551.01 to 1551.25 of the Revised Code; 10126

(B) Contract for the operation of, and establish rules for 10127
the use of, facilities over which the director has supervision or 10128
control, which rules may include the limitation of ingress to or 10129
egress from such facilities as may be necessary to maintain the 10130
security of such facilities and to provide for the safety of those 10131
on the premises of such facilities; 10132

(C) Purchase such fire and extended coverage insurance and 10133
insurance protecting against liability for damage to property or 10134
injury to or death of persons as the director may consider 10135
necessary and proper under ~~this chapter~~ sections 1551.01 to 10136
1551.25 of the Revised Code; 10137

(D) Sponsor, conduct, assist, and encourage conferences, 10138
seminars, meetings, institutes, and other forms of meetings; 10139
authorize, prepare, publish, and disseminate any form of studies, 10140
reports, and other publications; originate, prepare, and assist 10141
proposals for the expenditure or granting of funds by any 10142
governmental agency or person for purposes of energy resource 10143
development; and investigate, initiate, sponsor, participate in, 10144
and assist with cooperative activities and programs involving 10145
governmental agencies and other entities of other states and 10146
jurisdictions; 10147

(E) Do all acts and things necessary and proper to carry out 10148
the powers granted and the duties imposed by ~~this chapter~~ sections 10149
1551.01 to 1551.25 of the Revised Code; 10150

(F) Make grants of funds to any person, organization, or 10151
governmental agency of the state for the furnishing of goods or 10152
performance of services. 10153

Any person or governmental agency that receives funds from 10154
the department of development, or utilizes the facilities of the 10155

department under ~~this chapter~~ sections 1551.01 to 1551.25 of the 10156
Revised Code shall agree in writing that all know-how, trade 10157
secrets, and other forms of property, rights, and interest arising 10158
out of developments, discoveries, or inventions, including 10159
patents, copyrights, or royalties thereon, which result in whole 10160
or in part from research, studies, or testing conducted by use of 10161
such funds or facilities shall be the sole property of the 10162
department, except as may be otherwise negotiated and provided by 10163
contract in advance of such research, studies, or testing. 10164
However, such exceptions do not apply to the director or employees 10165
of the department participating in or performing research, tests, 10166
or studies. 10167

Rights retained by the department may be assigned, licensed, 10168
transferred, sold, or otherwise disposed of, in whole or in part, 10169
to any person or governmental agency. Any and all income, 10170
royalties, or proceeds derived or retained from such dispositions 10171
shall be paid to the state and credited to the general revenue 10172
fund. 10173

Any instrument by which real property is acquired pursuant to 10174
this section shall identify the agency of ~~the~~ this state that has 10175
the use and benefit of the real property as specified in section 10176
5301.012 of the Revised Code. 10177

Sec. 1551.15. (A) All general revenue fund moneys required by 10178
the department of development for purposes of ~~this chapter~~ 10179
sections 1551.01 to 1551.25 of the Revised Code are subject to 10180
appropriation by the general assembly. 10181

(B) The director of development may enter into agreements, 10182
make grants, or enter into contracts for the purposes of effecting 10183
the construction and operation in this state of experimental, 10184
pilot, or demonstration energy resource development facilities. 10185
Before making grants or entering contracts, the director shall 10186

determine that all of the following criteria are met: 10187

(1) The urgency of public need for the potential results of 10188
the experimental, pilot, or demonstration project is high, and 10189
there is little likelihood that similar results would be achieved 10190
in this state in a timely manner in the absence of state 10191
assistance; 10192

(2) The potential opportunities for private interests to 10193
recapture the investment in the undertaking through the normal 10194
commercial exploitation of proprietary knowledge appear to be 10195
inadequate to encourage timely results in this state; 10196

(3) The extent of the problems treated and the objectives 10197
sought by the project are consistent with the purposes of ~~this~~ 10198
~~chapter~~ sections 1551.01 to 1551.25 of the Revised Code and of 10199
general significance to the state. 10200

This determination by the director shall include the facts or 10201
reasons justifying it and shall be journalized by the director. 10202

(C) The director may use funds as appropriated, donated, 10203
granted, or received for any of the following purposes: 10204

(1) Construction and related architectural or engineering 10205
studies or purchase of physical plant and equipment for an 10206
experimental, pilot, or demonstration energy resource development 10207
facility; 10208

(2) Acquisition and improvement of land, construction of 10209
roads, and provision of other public facilities incidental and 10210
necessary to the accomplishment of experimental, pilot, or 10211
demonstration energy resource development facilities; 10212

(3) Operation of an energy resource development experimental, 10213
pilot, or demonstration project or facility, which could include 10214
but not be limited to labor, feedstocks, and repair or replacement 10215
parts; 10216

(4) Purchase of all or a portion of the usable output of energy resource development experimental, pilot, or demonstration projects and the disposition of this output for use in the facilities of governmental agencies.

(D) Each grant made pursuant to this section shall be accomplished through written agreements between the department and the person or governmental agency which would effect the construction and operation of the project or facility, and between the department and the persons and governmental agencies which would share the expenses and costs of the project or facility. In addition to such other terms as may be required by law or advised by counsel, each agreement shall provide for each of the following conditions:

(1) The limitation of the department's financial obligations in the project or facility to a specified dollar amount which shall not exceed one-third of the total costs of the project or facility;

(2) The financial participation in the project or facility by the federal government or its agencies, by private corporations doing business in this state, by local governmental agencies, or by other organizations;

(3) The disposition of the assets of the project or facility, should it be terminated or abandoned, in such manner that the department shall be repaid in the same proportion as its share in the total of moneys, property, or other assets expended, contributed, or invested in the project or facility;

(4) The criteria for the identification if and when the project or facility is commercially viable through the profitable disposition of its output;

(5) The termination of the department's financial support at such time the project or facility is commercially viable and the

repayment of the department through the future profits, if any, of 10248
the project or facility. 10249

Sec. 1551.311. The general assembly hereby finds and declares 10250
that the future of the Ohio coal industry lies in the development 10251
of clean coal technology and that the disproportionate economic 10252
impact on the state under Title IV of the "Clean Air Act 10253
Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants 10254
maximum federal assistance to ~~the~~ this state for such development. 10255
It is therefore imperative that the ~~department of development~~ Ohio 10256
air quality development authority created under Chapter 3706. of 10257
the Revised Code, its Ohio coal development office, the Ohio coal 10258
industry, the Ohio Washington office in the office of the 10259
governor, and the state's congressional delegation make every 10260
effort to acquire any federal assistance available for the 10261
development of clean coal technology, including assisting entities 10262
eligible for grants in their acquisition. The Ohio coal 10263
development agenda required by section 1551.34 of the Revised Code 10264
shall include, in addition to the other information required by 10265
that section, a description of such efforts and a description of 10266
the current status of the development of clean coal technology in 10267
this state and elsewhere. 10268

Sec. 1551.32. (A) There is hereby established within the 10269
~~department of development~~ Ohio air quality development authority 10270
the Ohio coal development office whose purposes are to do all of 10271
the following: 10272

(1) Encourage, promote, and support siting, financing, 10273
construction, and operation of commercially available or scaled 10274
facilities and technologies, including, without limitation, 10275
commercial-scale demonstration facilities and, when necessary or 10276
appropriate to demonstrate the commercial acceptability of a 10277
specific technology, up to three installations within this state 10278

utilizing the specific technology, to more efficiently produce, 10279
beneficiate, market, or use Ohio coal; 10280

(2) Encourage, promote, and support the market acceptance and 10281
increased market use of Ohio coal through technology and market 10282
development; 10283

(3) Assist in the financing of coal development facilities; 10284

(4) Encourage, promote, and support, in state-owned 10285
buildings, facilities, and operations, use of Ohio coal and 10286
electricity sold by utilities and others in this state that use 10287
Ohio coal for generation; 10288

(5) Improve environmental quality, particularly through 10289
cleaner use of Ohio coal; 10290

(6) Assist and cooperate with governmental agencies, 10291
universities and colleges, coal producers, coal miners, electric 10292
utilities and other coal users, public and private sector coal 10293
development interests, and others in achieving these purposes. 10294

(B) The office shall give priority to improvement or 10295
reconstruction of existing facilities and equipment when 10296
economically feasible, to construction and operation of 10297
commercial-scale facilities, and to technologies, equipment, and 10298
other techniques that enable maximum use of Ohio coal in an 10299
environmentally acceptable, cost-effective manner. 10300

Sec. 1551.33. (A) ~~The director of development~~ Ohio air 10301
quality development authority, by the affirmative vote of a 10302
majority of its members, shall appoint and fix the compensation of 10303
the director of the Ohio coal development office ~~established under~~ 10304
~~section 1551.32 of the Revised Code.~~ The director ~~of the office~~ 10305
shall serve at the pleasure of the ~~director of development~~ 10306
authority. 10307

(B) The director of the office shall do all of the following: 10308

- (1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code; 10309
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- (2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda; 10311
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- (3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda; 10314
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- (4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person; 10318
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- (5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office+. Any such employees shall be in the unclassified service and shall serve at the pleasure of the authority. 10322
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- (6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code; 10327
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- (7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public 10330
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utilities commission a report recommending that the commission 10340
allow the recovery of costs associated with the facility or 10341
project under section 4905.304 of the Revised Code and including 10342
the reasons for the recommendation. 10343

(8) Establish such policies, procedures, and guidelines as 10344
are necessary to achieve the office's purposes. 10345

(C) ~~With the approval of the director of development~~ By the 10346
affirmative vote of a majority of the members of the Ohio air 10347
quality development authority, the director of the office may 10348
exercise any of the powers and duties of the director of 10349
development as the ~~directors~~ authority and the director of the 10350
office consider appropriate or desirable to achieve the office's 10351
purposes, including, but not limited to, the powers and duties 10352
enumerated in sections 1551.11, 1551.12, 1551.13, and 1551.15 of 10353
the Revised Code. 10354

Additionally, the director of the office may make loans to 10355
governmental agencies or persons for projects to carry out the 10356
office's purposes. Fees, charges, rates of interest, times of 10357
payment of interest and principal, and other terms, conditions, 10358
and provisions of the loans shall be such as the director of the 10359
office determines to be appropriate and in furtherance of the 10360
purposes for which the loans are made. The mortgage lien securing 10361
any moneys lent by the director of the office may be subordinate 10362
to the mortgage lien securing any moneys lent or invested by a 10363
financial institution, but shall be superior to that securing any 10364
moneys lent or expended by any other person. The moneys used in 10365
making the loans shall be disbursed upon order of the director of 10366
the office. 10367

Sec. 1551.35. (A) There is hereby established a technical 10368
advisory committee to assist the director of the Ohio coal 10369
development office ~~established under section 1551.32 of the~~ 10370

~~Revised Code~~ in achieving the office's purposes. The director 10371
shall appoint to the committee one member of the public utilities 10372
commission and one representative each of coal production 10373
companies, the united mine workers of America, electric utilities, 10374
manufacturers that use Ohio coal, and environmental organizations, 10375
as well as two people with a background in coal research and 10376
development technology, one of whom is employed at the time of the 10377
member's appointment by a state university, as defined in section 10378
3345.011 of the Revised Code. In addition, the committee shall 10379
include four legislative members. The speaker and minority leader 10380
of the house of representatives each shall appoint one member of 10381
the house of representatives, and the president and minority 10382
leader of the senate each shall appoint one member of the senate, 10383
to the committee. The director of environmental protection, 10384
~~representing the environmental protection agency, the Ohio air~~ 10385
~~quality director of development authority, and one member of the~~ 10386
Ohio water development authority designated by that authority, 10387
shall serve on the committee as members ex officio. Any member of 10388
the committee may designate in writing a substitute to serve in 10389
the member's absence on the committee. The director of 10390
environmental protection may designate in writing the chief of the 10391
air pollution control division of the agency to represent the 10392
agency. Members shall serve on the committee at the pleasure of 10393
their appointing authority. Members of the committee appointed by 10394
the director of the office and, notwithstanding section 101.26 of 10395
the Revised Code, legislative members of the committee, when 10396
engaged in their official duties as members of the committee, 10397
shall be compensated on a per diem basis in accordance with 10398
division (J) of section 124.15 of the Revised Code, except that 10399
the member of the public utilities commission and, while employed 10400
by a state university, the member with a background in coal 10401
research, shall not be so compensated. Members shall receive their 10402
actual and necessary expenses incurred in the performance of their 10403

duties. 10404

(B) The technical advisory committee shall review and make 10405
recommendations concerning the Ohio coal development agenda 10406
required under section 1551.34 of the Revised Code, project 10407
proposals, research and development projects submitted to the 10408
office by public utilities for the purpose of section 4905.304 of 10409
the Revised Code, proposals for grants, loans, and loan guarantees 10410
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 10411
and such other topics as the director of the office considers 10412
appropriate. 10413

(C) The technical advisory committee may hold an executive 10414
session at any regular or special meeting for the purpose of 10415
considering research and development project proposals or 10416
applications for assistance submitted to the Ohio coal development 10417
office under section 1551.33, or sections 1555.01 to 1555.06, of 10418
the Revised Code, to the extent that such proposals or 10419
applications consist of trade secrets or other proprietary 10420
information. 10421

Any materials or data submitted to, made available to, or 10422
received by the ~~director of Ohio air quality development authority~~ 10423
or the director of the Ohio coal development office in connection 10424
with agreements for assistance entered into under this chapter or 10425
Chapter 1555. of the Revised Code, or any information taken from 10426
such materials or data for any purpose, to the extent that the 10427
materials or data consist of trade secrets or other proprietary 10428
information, are not public records for the purposes of section 10429
149.43 of the Revised Code. 10430

As used in this division, "trade secrets" has the same 10431
meaning as in section 1333.61 of the Revised Code. 10432

Sec. 1555.02. It is hereby declared to be the public policy 10433
of ~~the~~ this state through the operations of the Ohio coal 10434

development office under this chapter to contribute toward one or 10435
more of the following: to provide for the comfort, health, safety, 10436
and general welfare of all employees and other inhabitants of ~~the~~ 10437
this state through research and development directed toward the 10438
discovery of new technologies or the demonstration or application 10439
of existing technologies to enable the conversion or use of Ohio 10440
coal as a fuel or chemical feedstock in an environmentally 10441
acceptable manner thereby enhancing the marketability and 10442
fostering the use of this state's vast reserves of coal, to assist 10443
in the financing of coal research and development and coal 10444
research and development projects or facilities for persons doing 10445
business in this state and educational and scientific institutions 10446
located in this state, to create or preserve jobs and employment 10447
opportunities or improve the economic welfare of the people of ~~the~~ 10448
this state, or to assist and cooperate with such persons and 10449
educational and scientific institutions in conducting coal 10450
research and development. In furtherance of ~~such~~ this public 10451
policy, the Ohio coal development office ~~may~~, with the advice of 10452
the technical advisory committee created in section 1551.35 of the 10453
Revised Code and the ~~approval of the director of development~~ 10454
affirmative vote of a majority of the members of the Ohio air 10455
quality development authority, may make loans, guarantee loans, 10456
and make grants to persons doing business in this state or to 10457
educational or scientific institutions located in this state for 10458
coal research and development projects by such persons or 10459
educational or scientific institutions; ~~may~~, with the advice of 10460
the technical advisory committee and the ~~approval of the director~~ 10461
~~of development~~ affirmative vote of a majority of the members of 10462
the Ohio air quality development authority, request the issuance 10463
of coal research and development general obligations under section 10464
151.07 of the Revised Code to provide funds for making such loans, 10465
loan guarantees, and grants; and ~~may~~, with the advice of the 10466
technical advisory committee and the ~~approval of the director of~~ 10467

~~development~~ affirmative vote of a majority of the members of the 10468
Ohio air quality development authority, expend moneys credited to 10469
the coal research and development fund created in section 1555.15 10470
of the Revised Code for the purpose of making such loans, loan 10471
guarantees, and grants. Determinations by the director of the Ohio 10472
coal development office that coal research and development or a 10473
coal research and development facility is a coal research and 10474
development project under this chapter and is consistent with the 10475
purposes of Section 15 of Article VIII, Ohio Constitution, and 10476
this chapter shall be conclusive as to the validity and 10477
enforceability of the coal research and development general 10478
obligations issued to finance such project and of the 10479
authorizations, trust agreements or indentures, loan agreements, 10480
loan guarantee agreements, or grant agreements, and other 10481
agreements made in connection therewith, all in accordance with 10482
their terms. 10483

Sec. 1555.03. For the purposes of this chapter, the director 10484
of the Ohio coal development office may: 10485

(A) With the advice of the technical advisory committee 10486
created in section 1551.35 of the Revised Code and the ~~approval of~~ 10487
~~the director of development~~ affirmative vote of a majority of the 10488
members of the Ohio air quality development authority, make loans, 10489
guarantee loans, and make grants to persons doing business in this 10490
state or to educational or scientific institutions located in this 10491
state for coal research and development projects by any such 10492
person or educational or scientific institution and adopt rules 10493
under Chapter 119. of the Revised Code for making such loans, 10494
guarantees, and grants. 10495

(B) In making loans, loan guarantees, and grants under 10496
division (A) of this section and section 1555.04 of the Revised 10497
Code, the director of the office shall ensure that an adequate 10498

portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, ~~be~~ is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15, Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents

or copyrights ~~which, that~~ result in whole or in part from coal 10531
research and development projects conducted under any such 10532
contract or agreement, in such amounts and for such period of 10533
years as may be negotiated and provided by the contract or 10534
agreement in advance of the making of the grant, loan, or loan 10535
guarantee. Moneys so received by the director of the office shall 10536
be credited to the coal research and development bond service 10537
fund. 10538

(E) Employ managers, superintendents, and other employees and 10539
retain or contract with consulting engineers, financial 10540
consultants, accounting experts, architects, and such other 10541
consultants and independent contractors as are necessary in the 10542
judgment of the director of the office to carry out this chapter, 10543
and fix the compensation thereof. 10544

(F) Receive and accept from any federal agency, subject to 10545
the approval of the governor, grants for or in aid of the 10546
construction or operation of any coal research and development 10547
project or for coal research and development, and receive and 10548
accept aid or contributions from any source of money, property, 10549
labor, or other things of value, to be held, used, and applied 10550
only for the purposes for which such grants and contributions are 10551
made. 10552

(G) Purchase fire and extended coverage and liability 10553
insurance for any coal research and development project, insurance 10554
protecting the office and its officers and employees against 10555
liability for damage to property or injury to or death of persons 10556
arising from its operations, and any other insurance the director 10557
of the office determines necessary or proper under this chapter. 10558
Any moneys received by the director from the proceeds of any such 10559
insurance with respect to a coal research and development project 10560
and any moneys received by the director from the proceeds of any 10561
settlement, judgment, foreclosure, or other insurance with respect 10562

to a coal research and development project or facility shall be 10563
credited to the coal research and development bond service fund. 10564

(H) In the exercise of the powers of the director of the 10565
office under this chapter, call to the director's assistance, 10566
temporarily, from time to time, any engineers, technical experts, 10567
financial experts, and other employees in any state department, 10568
agency, or commission, or in the Ohio state university, or other 10569
educational institutions financed wholly or partially by ~~the~~ this 10570
state for purposes of assisting the director of the office with 10571
reviewing and evaluating applications for financial assistance 10572
under this chapter, monitoring performance of coal research and 10573
development projects receiving financial assistance under this 10574
chapter, and reviewing and evaluating the progress and findings of 10575
those projects. Such engineers, experts, and employees shall not 10576
receive any additional compensation over that which they receive 10577
from the department, agency, commission, or educational 10578
institution by which they are employed, but they shall be 10579
reimbursed for their actual and necessary expenses incurred while 10580
working under the direction of the director. 10581

(I) Do all acts necessary or proper to carry out the powers 10582
expressly granted in this chapter. 10583

Sec. 1555.04. (A) With respect to coal research and 10584
development projects financed wholly or partially from a loan or 10585
loan guarantee under this chapter, the director of the Ohio coal 10586
development office ~~may~~, in addition to other powers under this 10587
chapter, with the advice of the technical advisory committee 10588
created in section 1551.35 of the Revised Code and the ~~approval~~ 10589
affirmative vote of the director of development a majority of the 10590
members of the Ohio air quality development authority, may enter 10591
into loan agreements, accept notes and other forms of obligation 10592
to evidence such indebtedness and mortgages, liens, pledges, 10593

assignments, or other security interests to secure such 10594
indebtedness, which may be prior or subordinate to or on a parity 10595
with other indebtedness, obligations, mortgages, pledges, 10596
assignments, other security interests, or liens or encumbrances, 10597
and take such actions as ~~he~~ the director of the office considers 10598
appropriate to protect such security and safeguard against losses, 10599
including, without limitation, foreclosure and the bidding upon 10600
and purchase of property upon foreclosure or other sale~~+~~. 10601

(B) The authority granted by this section is cumulative and 10602
supplementary to all other authority granted in this chapter. The 10603
authority granted by this section does not alter or impair any 10604
similar authority granted elsewhere in this chapter with respect 10605
to other projects. 10606

Sec. 1555.05. (A) Subject to any limitations as to aggregate 10607
amounts thereof that may from time to time be prescribed by the 10608
general assembly and to other applicable provisions of this 10609
chapter, and subject to the ~~one hundred million dollar~~ 10610
one-hundred-million-dollar limitation provided in Section 15 of 10611
Article VIII, Ohio Constitution, the director of the Ohio coal 10612
development office ~~may~~, on behalf of ~~the~~ this state, with the 10613
advice of the technical advisory committee created in section 10614
1551.35 of the Revised Code and the ~~approval~~ affirmative vote of a 10615
majority of the members of the director of development Ohio air 10616
quality development authority, may enter into contracts to 10617
guarantee the repayment or payment of the unpaid principal amount 10618
of loans made to pay the costs of coal research and development 10619
projects. 10620

(B) The contract of guarantee may make provision for the 10621
conditions of, time for, and manner of fulfillment of the 10622
guarantee commitment, subrogation of ~~the~~ this state to the rights 10623
of the parties guaranteed and exercise of such parties' rights by 10624

the state, giving the state the option of making payment of the 10625
principal amount guaranteed in one or more installments and, if 10626
deferred, to pay interest thereon from the source specified in 10627
division (A) of this section, and any other terms or conditions 10628
customary to such guarantees and as the director of the office may 10629
approve, and may contain provisions for securing the guarantee in 10630
the manner consistent with this section, covenants on behalf of 10631
~~the~~ this state to issue obligations under section 1555.08 of the 10632
Revised Code to provide moneys to fulfill such guarantees and 10633
covenants, and covenants restricting the aggregate amount of 10634
guarantees that may be contracted under this section and 10635
obligations that may be issued under section 151.07 of the Revised 10636
Code, and terms pertinent to either, to better secure the parties 10637
guaranteed. 10638

(C) The director of the office may fix service charges for 10639
making a guarantee. Such charges shall be payable at such times 10640
and place and in such amounts and manner as may be prescribed by 10641
the director. Moneys received from such charges shall be credited 10642
to the coal research and development bond service fund. 10643

(D) Any guaranteed parties under this section, by any 10644
suitable form of legal proceedings and except to the extent that 10645
their rights are restricted by the guarantee documents, may ~~by any~~ 10646
~~suitable form of legal proceedings,~~ protect and enforce any rights 10647
under the laws of this state or granted by such guarantee or 10648
guarantee documents. Such rights include the right to compel the 10649
performance of all duties of the office required by this section 10650
or the guarantee or guarantee documents; and in the event of 10651
default with respect to the payment of any guarantees, to apply to 10652
a court having jurisdiction of the cause to appoint a receiver to 10653
receive and administer the moneys pledged to such guarantee with 10654
full power to pay, and to provide for payment of, such guarantee, 10655
and with such powers, subject to the direction of the court, as 10656

are accorded receivers in general equity cases, excluding any 10657
power to pledge or apply additional revenues or receipts or other 10658
income or moneys of ~~the~~ this state. Each duty of the office and 10659
its director and employees required or undertaken under this 10660
section or a guarantee made under this section is hereby 10661
established as a duty of the office and of its director and each 10662
such employee having authority to perform such duty, specifically 10663
enjoined by the law resulting from an office, trust, or station 10664
within the meaning of section 2731.01 of the Revised Code. The 10665
persons who are at the time the director of the office, or its 10666
employees, are not liable in their personal capacities on any 10667
guarantees or contracts to make guarantees by the director. 10668

Sec. 1555.06. Upon application by the director of the Ohio 10669
coal development office with the ~~approval~~ affirmative vote of a 10670
majority of the ~~director of development~~ members of the Ohio air 10671
quality development authority, the controlling board ~~may~~, from 10672
appropriations available to the board, may provide funds for 10673
surveys or studies by the office of any proposed coal research and 10674
development project subject to repayment by the office from funds 10675
available to it, within the time fixed by the board. Funds to be 10676
repaid shall be charged by the office to the appropriate coal 10677
research and development project and the amount thereof shall be a 10678
cost of the project. This section does not abrogate the authority 10679
of the controlling board to otherwise provide funds for use by the 10680
office in the exercise of the powers granted to it by this 10681
chapter. 10682

Sec. 1555.08. (A) Subject to the limitations provided in 10683
Section 15 of Article VIII, Ohio Constitution, the commissioners 10684
of the sinking fund, upon certification by the director of the 10685
Ohio coal development office of the amount of moneys or additional 10686
moneys needed in the coal research and development fund for the 10687

purpose of making grants or loans for allowable costs, or needed 10688
for capitalized interest, for funding reserves, and for paying 10689
costs and expenses incurred in connection with the issuance, 10690
carrying, securing, paying, redeeming, or retirement of the 10691
obligations or any obligations refunded thereby, including payment 10692
of costs and expenses relating to letters of credit, lines of 10693
credit, insurance, put agreements, standby purchase agreements, 10694
indexing, marketing, remarketing and administrative arrangements, 10695
interest swap or hedging agreements, and any other credit 10696
enhancement, liquidity, remarketing, renewal, or refunding 10697
arrangements, all of which are authorized by this section, or 10698
providing moneys for loan guarantees, shall issue obligations of 10699
the state under this section in amounts authorized by the general 10700
assembly; provided that such obligations may be issued to the 10701
extent necessary to satisfy the covenants in contracts of 10702
guarantee made under section 1555.05 of the Revised Code to issue 10703
obligations to meet such guarantees, notwithstanding limitations 10704
otherwise applicable to the issuance of obligations under this 10705
section except the one-hundred-million-dollar limitation provided 10706
in Section 15 of Article VIII, Ohio Constitution. The proceeds of 10707
such obligations, except for the portion to be deposited in the 10708
coal research and development bond service fund as may be provided 10709
in the bond proceedings, shall as provided in the bond proceedings 10710
be deposited in the coal research and development fund. The 10711
commissioners of the sinking fund may appoint trustees, paying 10712
agents, and transfer agents and may retain the services of 10713
financial advisors, accounting experts, and attorneys, and retain 10714
or contract for the services of marketing, remarketing, indexing, 10715
and administrative agents, other consultants, and independent 10716
contractors, including printing services, as are necessary in 10717
their judgment to carry out this section. 10718

(B) The full faith and credit of the state of Ohio is hereby 10719
pledged to obligations issued under this section. The right of the 10720

holders and owners to payment of bond service charges is limited 10721
to all or that portion of the moneys pledged thereto pursuant to 10722
the bond proceedings in accordance with this section, and each 10723
such obligation shall bear on its face a statement to that effect. 10724

(C) Obligations shall be authorized by resolution of the 10725
commissioners of the sinking fund on request of the director of 10726
the Ohio coal development office as provided in section 1555.02 of 10727
the Revised Code and the bond proceedings shall provide for the 10728
purpose thereof and the principal amount or amounts, and shall 10729
provide for or authorize the manner or agency for determining the 10730
principal maturity or maturities, not exceeding forty years from 10731
the date of issuance, the interest rate or rates or the maximum 10732
interest rate, the date of the obligations and the dates of 10733
payment of interest thereon, their denomination, and the 10734
establishment within or without the state of a place or places of 10735
payment of bond service charges. Sections 9.98 to 9.983 of the 10736
Revised Code apply to obligations issued under this section. The 10737
purpose of such obligations may be stated in the bond proceedings 10738
in terms describing the general purpose or purposes to be served. 10739
The bond proceedings shall also provide, subject to the provisions 10740
of any other applicable bond proceedings, for the pledge of all, 10741
or such part as the commissioners of the sinking fund may 10742
determine, of the moneys credited to the coal research and 10743
development bond service fund to the payment of bond service 10744
charges, which pledges may be made either prior or subordinate to 10745
other expenses, claims, or payments and may be made to secure the 10746
obligations on a parity with obligations theretofore or thereafter 10747
issued, if and to the extent provided in the bond proceedings. The 10748
moneys so pledged and thereafter received by the state are 10749
immediately subject to the lien of such pledge without any 10750
physical delivery thereof or further act, and the lien of any such 10751
pledges is valid and binding against all parties having claims of 10752
any kind against the state or any governmental agency of the 10753

state, irrespective of whether such parties have notice thereof, 10754
and shall create a perfected security interest for all purposes of 10755
Chapter 1309. of the Revised Code, without the necessity for 10756
separation or delivery of funds or for the filing or recording of 10757
the bond proceedings by which such pledge is created or any 10758
certificate, statement or other document with respect thereto; and 10759
the pledge of such moneys is effective and the money therefrom and 10760
thereof may be applied to the purposes for which pledged without 10761
necessity for any act of appropriation. Every pledge, and every 10762
covenant and agreement made with respect thereto, made in the bond 10763
proceedings may therein be extended to the benefit of the owners 10764
and holders of obligations authorized by this section, and to any 10765
trustee therefor, for the further security of the payment of the 10766
bond service charges. 10767

(D) The bond proceedings may contain additional provisions as 10768
to: 10769

(1) The redemption of obligations prior to maturity at the 10770
option of the commissioners of the sinking fund at such price or 10771
prices and under such terms and conditions as are provided in the 10772
bond proceedings; 10773

(2) Other terms of the obligations; 10774

(3) Limitations on the issuance of additional obligations; 10775

(4) The terms of any trust agreement or indenture securing 10776
the obligations or under which the obligations may be issued; 10777

(5) The deposit, investment, and application of the coal 10778
research and development bond service fund, and the safeguarding 10779
of moneys on hand or on deposit, without regard to Chapter 131. or 10780
135. of the Revised Code, but subject to any special provisions of 10781
this chapter, with respect to particular moneys; provided, that 10782
any bank or trust company which acts as depository of any moneys 10783
in the fund may furnish such indemnifying bonds or may pledge such 10784

securities as required by the commissioners of the sinking fund; 10785

(6) Any other provision of the bond proceedings being binding 10786
upon the commissioners of the sinking fund, or such other body or 10787
person as may from time to time have the authority under law to 10788
take such actions as may be necessary to perform all or any part 10789
of the duty required by such provision; 10790

(7) Any provision which may be made in a trust agreement or 10791
indenture; 10792

(8) Any other or additional agreements with the holders of 10793
the obligations, or the trustee therefor, relating to the 10794
obligations or the security therefor, including the assignment of 10795
mortgages or other security obtained or to be obtained for loans 10796
under this chapter. 10797

(E) The obligations may have the great seal of the state or a 10798
facsimile thereof affixed thereto or printed thereon. The 10799
obligations shall be signed by such members of the commissioners 10800
of the sinking fund as are designated in the resolution 10801
authorizing the obligations or bear the facsimile signatures of 10802
such members. Any coupons attached to the obligations shall bear 10803
the facsimile signature of the treasurer of state. Any obligations 10804
may be executed by the persons who, on the date of execution, are 10805
the commissioners although on the date of such bonds the persons 10806
were not the commissioners. Any coupons may be executed by the 10807
person who, on the date of execution, is the treasurer of state 10808
although on the date of such coupons the person was not the 10809
treasurer of state. In case any officer or commissioner whose 10810
signature or a facsimile of whose signature appears on any such 10811
obligations or any coupons ceases to be such officer or 10812
commissioner before delivery thereof, such signature or facsimile 10813
is nevertheless valid and sufficient for all purposes as if the 10814
individual had remained such officer or commissioner until such 10815
delivery; and in case the seal to be affixed to obligations has 10816

been changed after a facsimile of the seal has been imprinted on 10817
such obligations, such facsimile seal shall continue to be 10818
sufficient as to such obligations and obligations issued in 10819
substitution or exchange therefor. 10820

(F) All obligations except loan guarantees are negotiable 10821
instruments and securities under Chapter 1308. of the Revised 10822
Code, subject to the provisions of the bond proceedings as to 10823
registration. The obligations may be issued in coupon or in 10824
registered form, or both, as the commissioners of the sinking fund 10825
determine. Provision may be made for the registration of any 10826
obligations with coupons attached thereto as to principal alone or 10827
as to both principal and interest, their exchange for obligations 10828
so registered, and for the conversion or reconversion into 10829
obligations with coupons attached thereto of any obligations 10830
registered as to both principal and interest, and for reasonable 10831
charges for such registration, exchange, conversion, and 10832
reconversion. 10833

(G) Obligations may be sold at public sale or at private 10834
sale, as determined in the bond proceedings. 10835

(H) Pending preparation of definitive obligations, the 10836
commissioners of the sinking fund may issue interim receipts or 10837
certificates which shall be exchanged for such definitive 10838
obligations. 10839

(I) In the discretion of the commissioners of the sinking 10840
fund, obligations may be secured additionally by a trust agreement 10841
or indenture between the commissioners and a corporate trustee, 10842
which may be any trust company or bank having its principal place 10843
of business within the state. Any such agreement or indenture may 10844
contain the resolution authorizing the issuance of the 10845
obligations, any provisions that may be contained in any bond 10846
proceedings, and other provisions that are customary or 10847
appropriate in an agreement or indenture of such type, including, 10848

but not limited to:	10849
(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;	10850 10851 10852 10853
(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the commissioners of the sinking fund made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;	10854 10855 10856 10857 10858 10859 10860
(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;	10861 10862 10863 10864
(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;	10865 10866
(5) Such other provisions as the trustee and the commissioners of the sinking fund agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.	10867 10868 10869 10870
(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's rights are restricted by the bond proceedings, may by any suitable form of legal proceedings protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the commissioners of the sinking fund, the director of development <u>Ohio air quality development authority</u> , or the Ohio coal development office required by this chapter and Chapter 1551. of	10871 10872 10873 10874 10875 10876 10877 10878 10879

the Revised Code or the bond proceedings; to enjoin unlawful 10880
activities; and in the event of default with respect to the 10881
payment of any bond service charges on any obligations or in the 10882
performance of any covenant or agreement on the part of the 10883
commissioners, the ~~director~~ authority, or the office in the bond 10884
proceedings, to apply to a court having jurisdiction of the cause 10885
to appoint a receiver to receive and administer the moneys 10886
pledged, other than those in the custody of the treasurer of 10887
state, that are pledged to the payment of the bond service charges 10888
on such obligations or that are the subject of the covenant or 10889
agreement, with full power to pay, and to provide for payment of 10890
bond service charges on, such obligations, and with such powers, 10891
subject to the direction of the court, as are accorded receivers 10892
in general equity cases, excluding any power to pledge additional 10893
revenues or receipts or other income or moneys of the 10894
commissioners of the sinking fund or the state or governmental 10895
agencies of the state to the payment of such principal and 10896
interest and excluding the power to take possession of, mortgage, 10897
or cause the sale or otherwise dispose of any project. 10898

Each duty of the commissioners of the sinking fund and their 10899
employees, and of each governmental agency and its officers, 10900
members, or employees, undertaken pursuant to the bond proceedings 10901
or any grant, loan, or loan guarantee agreement made under 10902
authority of this chapter, and in every agreement by or with the 10903
commissioners, is hereby established as a duty of the 10904
commissioners, and of each such officer, member, or employee 10905
having authority to perform such duty, specifically enjoined by 10906
the law resulting from an office, trust, or station within the 10907
meaning of section 2731.01 of the Revised Code. 10908

The persons who are at the time the commissioners of the 10909
sinking fund, or their employees, are not liable in their personal 10910
capacities on any obligations issued by the commissioners or any 10911

agreements of or with the commissioners. 10912

(K) Obligations issued under this section are lawful 10913
investments for banks, societies for savings, savings and loan 10914
associations, deposit guarantee associations, trust companies, 10915
trustees, fiduciaries, insurance companies, including domestic for 10916
life and domestic not for life, trustees or other officers having 10917
charge of sinking and bond retirement or other special funds of 10918
political subdivisions and taxing districts of this state, the 10919
commissioners of the sinking fund of the state, the administrator 10920
of workers' compensation, the state teachers retirement system, 10921
the public employees retirement system, the school employees 10922
retirement system, and the Ohio police and fire pension fund, 10923
notwithstanding any other provisions of the Revised Code or rules 10924
adopted pursuant thereto by any governmental agency of the state 10925
with respect to investments by them, and are also acceptable as 10926
security for the deposit of public moneys. 10927

(L) If the law or the instrument creating a trust pursuant to 10928
division (I) of this section expressly permits investment in 10929
direct obligations of the United States or an agency of the United 10930
States, unless expressly prohibited by the instrument, such moneys 10931
also may be invested in no-front-end-load money market mutual 10932
funds consisting exclusively of obligations of the United States 10933
or an agency of the United States and in repurchase agreements, 10934
including those issued by the fiduciary itself, secured by 10935
obligations of the United States or an agency of the United 10936
States; and in collective investment funds established in 10937
accordance with section 1111.14 of the Revised Code and consisting 10938
exclusively of any such securities, notwithstanding division 10939
(A)(1)(c) of that section. The income from such investments shall 10940
be credited to such funds as the commissioners of the sinking fund 10941
determine, and such investments may be sold at such times as the 10942
commissioners determine or authorize. 10943

(M) Provision may be made in the applicable bond proceedings 10944
for the establishment of separate accounts in the bond service 10945
fund and for the application of such accounts only to the 10946
specified bond service charges on obligations pertinent to such 10947
accounts and bond service fund and for other accounts therein 10948
within the general purposes of such fund. Moneys to the credit of 10949
the bond service fund shall be disbursed on the order of the 10950
treasurer of state; provided, that no such order is required for 10951
the payment from the bond service fund when due of bond service 10952
charges on obligations. 10953

(N) The commissioners of the sinking fund may pledge all, or 10954
such portion as they determine, of the receipts of the bond 10955
service fund to the payment of bond service charges on obligations 10956
issued under this section, and for the establishment and 10957
maintenance of any reserves, as provided in the bond proceedings, 10958
and make other provisions therein with respect to pledged receipts 10959
as authorized by this chapter, which provisions control 10960
notwithstanding any other provisions of law pertaining thereto. 10961

(O) The commissioners of the sinking fund may covenant in the 10962
bond proceedings, and any such covenants control notwithstanding 10963
any other provision of law, that the state and applicable officers 10964
and governmental agencies of the state, including the general 10965
assembly, so long as any obligations are outstanding, shall: 10966

(1) Maintain statutory authority for and cause to be levied 10967
and collected taxes so that the pledged receipts are sufficient in 10968
amount to meet bond service charges, and the establishment and 10969
maintenance of any reserves and other requirements provided for in 10970
the bond proceedings, and, as necessary, to meet covenants 10971
contained in any loan guarantees made under this chapter; 10972

(2) Take or permit no action, by statute or otherwise, that 10973
would impair the exemption from federal income taxation of the 10974

interest on the obligations. 10975

(P) All moneys received by or on account of the state and 10976
required by the applicable bond proceedings, consistent with this 10977
section, to be deposited, transferred, or credited to the coal 10978
research and development bond service fund, and all other moneys 10979
transferred or allocated to or received for the purposes of the 10980
fund, shall be credited to such fund and to any separate accounts 10981
therein, subject to applicable provisions of the bond proceedings, 10982
but without necessity for any act of appropriation. During the 10983
period beginning with the date of the first issuance of 10984
obligations and continuing during such time as any such 10985
obligations are outstanding, and so long as moneys in the bond 10986
service fund are insufficient to pay all bond service charges on 10987
such obligations becoming due in each year, a sufficient amount of 10988
moneys of the state are committed and shall be paid to the bond 10989
service fund in each year for the purpose of paying the bond 10990
service charges becoming due in that year without necessity for 10991
further act of appropriation for such purpose. The bond service 10992
fund is a trust fund and is hereby pledged to the payment of bond 10993
service charges to the extent provided in the applicable bond 10994
proceedings, and payment thereof from such fund shall be made or 10995
provided for by the treasurer of state in accordance with such 10996
bond proceedings without necessity for any act of appropriation. 10997
All investment earnings of the fund shall be credited to the fund. 10998

(Q) For purposes of establishing the limitations contained in 10999
Section 15 of Article VIII, Ohio Constitution, the "principal 11000
amount" refers to the aggregate of the offering price of the bonds 11001
or notes. "Principal amount" does not refer to the aggregate value 11002
at maturity or redemption of the bonds or notes. 11003

(R) This section applies only with respect to obligations 11004
issued and delivered prior to September 30, 2000. 11005

Sec. 1555.17. All final actions of the director of the Ohio coal development office shall be journalized and such journal shall be open to inspection of the public at all reasonable times. Any materials or data, to the extent that they consist of trade secrets, as defined in section 1333.61 of the Revised Code, or other proprietary information, that are submitted or made available to, or received by, the ~~director of development~~ Ohio air quality development authority or the director of the Ohio coal development office, in connection with agreements for assistance entered into under this chapter or Chapter ~~1555.~~ 1551. of the Revised Code, or any information taken from those materials or data, are not public records for the ~~proposes~~ purposes of section 149.43 of the Revised Code.

Sec. 1711.09. Except as otherwise provided in this section, county agricultural societies, independent agricultural societies, and the Ohio expositions commission shall not permit during any fair, or for one week before or three days after any fair, any dealing in spirituous liquors, or at any time allow or tolerate immoral shows, lottery devices, games of chance, or gambling of any kind, including pool selling and paddle wheels, anywhere on the fairground; and shall permit no person at any time to operate any side show, amusement, game, or device, or offer for sale any novelty by auction or solicitation, on the fairground who has not first obtained from the director of agriculture a license under section 1711.11 of the Revised Code. This section does not prohibit the sale of lottery tickets by the state lottery commission pursuant to Chapter 3770. of the Revised Code at the state fairground during the state fair, or the sale of rights to participate in lotteries conducted by the commission, if authorized by sections 3770.21 to 3770.30 of the Revised Code. In addition, a county or independent agricultural society may permit,

at any time except during a fair or for one week before or three 11037
days after a fair, a charitable organization to conduct in 11038
accordance with Chapter 2915. of the Revised Code games of chance 11039
or bingo on the fairground of a county with a population of five 11040
hundred thousand or less. A charitable organization may lease all 11041
or part of the fairground from the agricultural society for that 11042
purpose. 11043

Any sales of intoxicating liquor transacted on the fairground 11044
shall be subject to Chapters 4301., 4303., and 4399. of the 11045
Revised Code. 11046

Any agricultural society that permits the sale of 11047
intoxicating liquor on its fairground shall apply any proceeds 11048
gained by the society from the permit holder and from activities 11049
coincident to the sale of intoxicating liquor first to pay the 11050
cost of insurance on all buildings on the fairground, and then for 11051
any other purpose authorized by law. 11052

Sec. 1711.11. (A) No person shall operate any concession at 11053
any fair or exposition conducted by a county or independent 11054
agricultural society or by the Ohio expositions commission without 11055
first obtaining from the director of agriculture a license to do 11056
so under division (B) of this section, nor shall any officer, 11057
agent, or employee of a county or independent agricultural society 11058
or of the Ohio expositions commission grant a privilege or 11059
concession to any person to do so, unless the person holds a 11060
license. 11061

For the purposes of this section, "concession" means any 11062
show, amusement other than an amusement ride as defined in section 11063
1711.50 of the Revised Code, game, or novelty stand operation at a 11064
fair or exposition, but does not include food or drink operations. 11065

(B) A license shall be issued by the director only upon a 11066
written application containing a detailed description of the 11067

concession. Blank applications for licenses shall be prepared and 11068
furnished by the director. 11069

(C) No license shall be issued until the applicant has paid a 11070
fee of seventy dollars to the director, except that no fee shall 11071
be collected from nonprofit organizations which are recorded as 11072
such by the secretary of state or with the internal revenue 11073
service. The director shall pay the fee into the state treasury to 11074
the credit of the amusement ride inspection fund established by 11075
section 1711.53 of the Revised Code. 11076

(D) A license issued under this section shall contain a 11077
detailed description of the concession licensed, shall expire on 11078
the thirty-first day of December following the date of issue, and 11079
shall be kept by the licensee in a conspicuous place where the 11080
licensee's concession is in operation. 11081

(E)(1) The director shall employ and provide training for a 11082
chief inspector and additional inspectors and employees as 11083
necessary to administer and enforce this section. The director may 11084
appoint or contract with other persons to perform inspections of 11085
concessions, provided that the persons meet the qualifications for 11086
inspectors established by rules adopted under division (G) of this 11087
section and are not owners or employees of owners of any 11088
concession subject to inspection under this section. No person 11089
shall inspect a concession who, within six months prior to the 11090
date of inspection, was an employee of the owner of the 11091
concession. 11092

(2) Before the director contracts with other persons to 11093
inspect concessions, the director shall seek the advice of the 11094
advisory council on amusement ride safety on whether to contract 11095
with those persons. The advice shall not be binding upon the 11096
director. After having received the advice of the council the 11097
director may proceed to contract for amusement ride inspectors and 11098
award the contract to the lowest responsive and responsible bidder 11099

in accordance with section 9.312 of the Revised Code. In order to 11100
determine the lowest responsive and responsible bid, the director, 11101
with the advice of the council, shall adopt rules governing the 11102
terms of the contract between the department of agriculture and 11103
the inspector. The rules shall prescribe the training and work 11104
experience required of an inspector, any insurance or bonds 11105
required of an inspector, and all the services the inspector will 11106
be required to perform on behalf of the department in an efficient 11107
professional manner. 11108

(F) This section does not require the officers of any county 11109
or independent agricultural society or of the Ohio expositions 11110
commission to grant any privilege or concession to any licensee. 11111

(G) The director shall enforce this section and, in 11112
accordance with Chapter 119. of the Revised Code, adopt all rules 11113
that are necessary for its enforcement. If the director finds that 11114
this section has been violated or that the licensee has been 11115
dishonest or has been fraudulent in dealings with the public, the 11116
director, in accordance with Chapter 119. of the Revised Code, 11117
shall revoke the licensee's license or fine the licensee not more 11118
than one thousand dollars, or both. The director, for a period not 11119
exceeding two years from the date of revocation, may refuse to 11120
issue another license to a person for a concession for which the 11121
person's license has been revoked. Notwithstanding section 119.12 11122
of the Revised Code, all appeals from any fine by, or order of, 11123
the director shall be to the court of common pleas of the county 11124
where the place of business of the person is located or to the 11125
common pleas court of the county in which the person is a resident 11126
or in which the concession is located. 11127

(H) Any person holding a license issued under this section 11128
who permits or tolerates at any place on the fairground where the 11129
person's concession is in operation, any immoral show, lottery 11130
device, game of chance, or gambling of any kind, including pool 11131

selling and paddle wheels, or who violates the terms of the 11132
license issued to the person, shall forfeit the license, and the 11133
director shall not issue any other license to the person until 11134
after a period of two years from the forfeiture. For the purposes 11135
of this division, "lottery device," "game of chance," and 11136
"gambling of any kind" do not include the sale of ~~lottery tickets~~ 11137
rights to participate in lotteries by the state lottery commission 11138
pursuant to Chapter 3770. of the Revised Code ~~at the state~~ 11139
~~fairground during the state fair~~. For the purposes of this section 11140
and section 1711.09 of the Revised Code, contests, games, 11141
tournaments, and other activities, the outcome of which is 11142
predominantly determined by the skill of the contestants, 11143
participants, or players, whether or not the contestants, 11144
participants, or players pay a price for the opportunity to win a 11145
prize, do not constitute a game of chance or gambling within the 11146
meaning, purpose, and intent of this section and section 1711.09 11147
of the Revised Code or sections 2915.01 to 2915.04 of the Revised 11148
Code. The foregoing definition does not apply where the contest, 11149
game, tournament, or other activity contains or includes any 11150
mechanical or physical device ~~which~~ that directly or indirectly 11151
impedes, impairs, or thwarts the skill of the contestant, 11152
participant, or player. 11153

Sec. 2101.16. (A) The fees enumerated in this division shall 11154
be charged and collected, if possible, by the probate judge and 11155
shall be in full for all services rendered in the respective 11156
proceedings: 11157

- | | | |
|--|---------|-------|
| (1) Account, in addition to advertising charges | \$12.00 | 11158 |
| Waivers and proof of notice of hearing on account, per | | 11159 |
| page, minimum one dollar | \$ 1.00 | 11160 |
| (2) Account of distribution, in addition to | | 11161 |
| advertising charges | \$ 7.00 | 11162 |
| (3) Adoption of child, petition for | \$50.00 | 11163 |

(4) Alter or cancel contract for sale or purchase of real estate, petition to	\$20.00	11164 11165
(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	\$ 5.00	11166 11167 11168
(6) Appropriation suit, per day, hearing in	\$20.00	11169
(7) Birth, application for registration of	\$ 7.00	11170
(8) Birth record, application to correct	\$ 5.00	11171
(9) Bond, application for new or additional	\$ 5.00	11172
(10) Bond, application for release of surety or reduction of	\$ 5.00	11173 11174
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00	11175
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00	11176 11177
(13) Citation and issuing citation, application for	\$ 5.00	11178
(14) Change of name, petition for	\$20.00	11179
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00	11180 11181
(16) Claim, application to compromise or settle	\$10.00	11182
(17) Claim, authority to present	\$10.00	11183
(18) Commissioner, appointment of	\$ 5.00	11184
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00	11185 11186
(20) Competency, application to procure adjudication of ...	\$20.00	11187
(21) Complete contract, application to	\$10.00	11188
(22) Concealment of assets, citation for	\$10.00	11189
(23) Construction of will, petition for	\$20.00	11190
(24) Continue decedent's business, application to	\$10.00	11191
Monthly reports of operation	\$ 5.00	11192
(25) Declaratory judgment, petition for	\$20.00	11193
(26) Deposit of will	\$ 5.00	11194
(27) Designation of heir	\$20.00	11195
(28) Distribution in kind, application, assent, and		11196

order for	\$ 5.00	11197
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00	11198 11199
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00	11200 11201 11202
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00	11203 11204
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00	11205 11206
(33) Election of surviving spouse under will	\$ 5.00	11207
(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	11208 11209 11210
(35) Foreign will, application to record	\$10.00	11211
Record of foreign will, additional, per page	\$ 1.00	11212
(36) Forms when supplied by the probate court, not to exceed	\$10.00	11213 11214
(37) Heirship, petition to determine	\$20.00	11215
(38) Injunction proceedings	\$20.00	11216
(39) Improve real estate, petition to	\$20.00	11217
(40) Inventory with appraisement	\$10.00	11218
(41) Inventory without appraisement	\$ 7.00	11219
(42) Investment or expenditure of funds, application for ..	\$10.00	11220
(43) Invest in real estate, application to	\$10.00	11221
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00	11222 11223
(45) Lease or lease and improve real estate, petition to ..	\$20.00	11224
(46) Marriage license	\$10.00	11225
Certified abstract of each marriage	\$ 2.00	11226
(47) Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of	\$10.00	11227 11228
(48) Mortgage or mortgage and repair or improve real		11229

estate, petition to	\$20.00	11230
(49) Newly discovered assets, report of	\$ 7.00	11231
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	\$20.00	11232 11233
(51) Power of attorney or revocation of power, bonding company	\$10.00	11234 11235
(52) Presumption of death, petition to establish	\$20.00	11236
(53) Probating will	\$15.00	11237
Proof of notice to beneficiaries	\$ 5.00	11238
(54) Purchase personal property, application of surviving spouse to	\$10.00	11239 11240
(55) Purchase real estate at appraised value, petition of surviving spouse to	\$20.00	11241 11242
(56) Receipts in addition to advertising charges, application and order to record	\$ 5.00	11243 11244
Record of those receipts, additional, per page	\$ 1.00	11245
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00	11246 11247
(58) Release of estate by mortgagee or other lienholder ...	\$ 5.00	11248
(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	11249 11250 11251 11252
(60) Removal of fiduciary, application for	\$10.00	11253
(61) Requalification of executor or administrator	\$10.00	11254
(62) Resignation of fiduciary	\$ 5.00	11255
(63) Sale bill, public sale of personal property	\$10.00	11256
(64) Sale of personal property and report, application for	\$10.00	11257 11258
(65) Sale of real estate, petition for	\$25.00	11259
(66) Terminate guardianship, petition to	\$10.00	11260
(67) Transfer of real estate, application, entry, and certificate for	\$ 7.00	11261 11262

(68) Unclaimed money, application to invest	\$ 7.00	11263
(69) Vacate approval of account or order of distribution, motion to	\$10.00	11264 11265
(70) Writ of execution	\$ 5.00	11266
(71) Writ of possession	\$ 5.00	11267
(72) Wrongful death, application and settlement of claim for	\$20.00	11268 11269
(73) Year's allowance, petition to review	\$ 7.00	11270
(74) Guardian's report, filing and review of	\$ 5.00	11271
(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.		11272 11273 11274 11275 11276 11277 11278 11279 11280 11281 11282 11283
(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 court may waive the costs, fees, and expenses of an investigation.		11284 11285 11286 11287 11288 11289 11290 11291 11292
(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of		11293 11294

the sixty-dollar fee collected pursuant to division (A)(59) of 11295
this section shall be deposited by the county treasurer in the 11296
indigent guardianship fund created pursuant to section 2111.51 of 11297
the Revised Code. 11298

(D) The fees of witnesses, jurors, sheriffs, coroners, and 11299
constables for services rendered in the probate court or by order 11300
of the probate judge shall be the same as provided for like 11301
services in the court of common pleas. 11302

(E) The probate court, by rule, may require an advance 11303
deposit for costs, not to exceed one hundred twenty-five dollars, 11304
at the time application is made for an appointment as executor or 11305
administrator or at the time a will is presented for probate. 11306

(F) The probate court, by rule, shall establish a reasonable 11307
fee, not to exceed fifty dollars, for the filing of a petition for 11308
the release of information regarding an adopted person's name by 11309
birth and the identity of the adopted person's biological parents 11310
and biological siblings pursuant to section 3107.41 of the Revised 11311
Code, all proceedings relative to the petition, the entry of an 11312
order relative to the petition, and all services required to be 11313
performed in connection with the petition. The probate court may 11314
use a reasonable portion of a fee charged under authority of this 11315
division to reimburse any agency, as defined in section 3107.39 of 11316
the Revised Code, for any services it renders in performing a task 11317
described in section 3107.41 of the Revised Code relative to or in 11318
connection with the petition for which the fee was charged. 11319

(G)(1) Thirty dollars of the fifty-dollar fee collected 11320
pursuant to division (A)(3) of this section shall be deposited 11321
into the "putative father registry fund," which is hereby created 11322
in the state treasury. The department of job and family services 11323
shall use the money in the fund to fund the department's costs of 11324
performing its duties related to the putative father registry 11325
established under section 3107.062 of the Revised Code. 11326

(2) If the department determines that money in the putative father registry fund is more than is needed for its duties related to the putative father registry, the department may use the surplus moneys in the fund as permitted in division (C) of section 2151.3529, division (B) of section 2151.3530, or section 5103.155 of the Revised Code. 11327
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Sec. 2113.041. (A) The administrator of the estate recovery program established pursuant to section 5111.11 of the Revised Code may present an affidavit to a financial institution requesting that the financial institution release account proceeds to recover the cost of services correctly provided to a medicaid recipient. The affidavit shall include all of the following information: 11333
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(1) The name of the decedent; 11340

(2) The name of any person who gave notice that the decedent was a medicaid recipient and that person's relationship to the decedent; 11341
11342
11343

(3) The name of the financial institution; 11344

(4) The account number; 11345

(5) A description of the claim for estate recovery; 11346

(6) The amount of funds to be recovered. 11347

(B) A financial institution may release account proceeds to the administrator of the estate recovery program if all of the following apply: 11348
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11350

(1) The decedent held an account at the financial institution that was in the decedent's name only. 11351
11352

(2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent. 11353
11354

(3) The decedent has no outstanding debts known to the 11355

administrator of the estate recovery program. 11356

(4) The financial institution has received no objections or 11357
has determined that no valid objections to release of proceeds 11358
have been received. 11359

(C) If proceeds have been released pursuant to division (B) 11360
of this section and the department of job and family services 11361
receives notice of a valid claim to the proceeds that has a higher 11362
priority under section 2117.25 of the Revised Code than the claim 11363
of the estate recovery program, the department may refund the 11364
proceeds to the financial institution or pay them to the person or 11365
government entity with the claim. 11366

Sec. 2117.06. (A) All creditors having claims against an 11367
estate, including claims arising out of contract, out of tort, on 11368
cognovit notes, or on judgments, whether due or not due, secured 11369
or unsecured, liquidated or unliquidated, shall present their 11370
claims in one of the following manners: 11371

(1) To the executor or administrator in a writing; 11372

(2) To the executor or administrator in a writing, and to the 11373
probate court by filing a copy of the writing with it; 11374

(3) In a writing that is sent by ordinary mail addressed to 11375
the decedent and that is actually received by the executor or 11376
administrator within the appropriate time specified in division 11377
(B) of this section. For purposes of this division, if an executor 11378
or administrator is not a natural person, the writing shall be 11379
considered as being actually received by the executor or 11380
administrator only if the person charged with the primary 11381
responsibility of administering the estate of the decedent 11382
actually receives the writing within the appropriate time 11383
specified in division (B) of this section. 11384

(B) ~~All~~ Except as provided in section 2117.061 of the Revised 11385

Code, all claims shall be presented within one year after the 11386
death of the decedent, whether or not the estate is released from 11387
administration or an executor or administrator is appointed during 11388
that one-year period. Every claim presented shall set forth the 11389
claimant's address. 11390

(C) A Except as provided in section 2117.061 of the Revised 11391
Code, a claim that is not presented within one year after the 11392
death of the decedent shall be forever barred as to all parties, 11393
including, but not limited to, devisees, legatees, and 11394
distributees. No payment shall be made on the claim and no action 11395
shall be maintained on the claim, except as otherwise provided in 11396
sections 2117.37 to 2117.42 of the Revised Code with reference to 11397
contingent claims. 11398

(D) In the absence of any prior demand for allowance, the 11399
executor or administrator shall allow or reject all claims, except 11400
tax assessment claims, within thirty days after their 11401
presentation, provided that failure of the executor or 11402
administrator to allow or reject within that time shall not 11403
prevent the executor or administrator from doing so after that 11404
time and shall not prejudice the rights of any claimant. Upon the 11405
allowance of a claim, the executor or the administrator, on demand 11406
of the creditor, shall furnish the creditor with a written 11407
statement or memorandum of the fact and date of the allowance. 11408

(E) If the executor or administrator has actual knowledge of 11409
a pending action commenced against the decedent prior to the 11410
decedent's death in a court of record in this state, the executor 11411
or administrator shall file a notice of the appointment of the 11412
executor or administrator in the pending action within ten days 11413
after acquiring that knowledge. If the administrator or executor 11414
is not a natural person, actual knowledge of a pending suit 11415
against the decedent shall be limited to the actual knowledge of 11416
the person charged with the primary responsibility of 11417

administering the estate of the decedent. Failure to file the 11418
notice within the ten-day period does not extend the claim period 11419
established by this section. 11420

(F) This section applies to any person who is required to 11421
give written notice to the executor or administrator of a motion 11422
or application to revive an action pending against the decedent at 11423
the date of the death of the decedent. 11424

(G) Nothing in this section or in section 2117.07 of the 11425
Revised Code shall be construed to reduce the time mentioned in 11426
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 11427
of the Revised Code, provided that no portion of any recovery on a 11428
claim brought pursuant to any of those sections shall come from 11429
the assets of an estate unless the claim has been presented 11430
against the estate in accordance with Chapter 2117. of the Revised 11431
Code. 11432

(H) Any person whose claim has been presented and has not 11433
been rejected after presentment is a creditor as that term is used 11434
in Chapters 2113. to 2125. of the Revised Code. Claims that are 11435
contingent need not be presented except as provided in sections 11436
2117.37 to 2117.42 of the Revised Code, but, whether presented 11437
pursuant to those sections or this section, contingent claims may 11438
be presented in any of the manners described in division (A) of 11439
this section. 11440

(I) If a creditor presents a claim against an estate in 11441
accordance with division (A)(2) of this section, the probate court 11442
shall not close the administration of the estate until that claim 11443
is allowed or rejected. 11444

(J) The probate court shall not require an executor or 11445
administrator to make and return into the court a schedule of 11446
claims against the estate. 11447

(K) If the executor or administrator makes a distribution of 11448

the assets of the estate prior to the expiration of the time for 11449
the filing of claims as set forth in this section, the executor or 11450
administrator shall provide notice on the account delivered to 11451
each distributee that the distributee may be liable to the estate 11452
up to the value of the distribution and may be required to return 11453
all or any part of the value of the distribution if a valid claim 11454
is subsequently made against the estate within the time permitted 11455
under this section. 11456

Sec. 2117.061. (A) As used in this section, "person 11457
responsible for the estate" means the executor, administrator, 11458
commissioner, or person who filed pursuant to section 2113.03 of 11459
the Revised Code for release from administration of an estate. 11460

(B) If the decedent was fifty-five years of age or older at 11461
the time of death, the person responsible for an estate shall 11462
determine whether the decedent was a recipient of medical 11463
assistance under Chapter 5111. of the Revised Code. If the 11464
decedent was a recipient, the person responsible for the estate 11465
shall give written notice to that effect to the administrator of 11466
the estate recovery program instituted under section 5111.11 of 11467
the Revised Code not later than thirty days after the occurrence 11468
of any of the following: 11469

(1) The granting of letters testamentary; 11470

(2) The administration of the estate; 11471

(3) The filing of an application for release from 11472
administration or summary release from administration. 11473

(C) The person responsible for an estate shall mark the 11474
appropriate box on the appropriate probate form to indicate 11475
compliance with the requirements of division (B) of this section. 11476

(D) The estate recovery program administrator shall present a 11477
claim for estate recovery to the person responsible for the estate 11478

or the person's legal representative not later than ninety days 11479
after the date on which notice is received under division (B) of 11480
this section or one year after the decedent's death, whichever is 11481
later. 11482

Sec. 2117.25. (A) Every executor or administrator shall 11483
proceed with diligence to pay the debts of the decedent and shall 11484
apply the assets in the following order: 11485

(1) Costs and expenses of administration; 11486

(2) An amount, not exceeding two thousand dollars, for 11487
funeral expenses that are included in the bill of a funeral 11488
director, funeral expenses other than those in the bill of a 11489
funeral director that are approved by the probate court, and an 11490
amount, not exceeding two thousand dollars, for burial and 11491
cemetery expenses, including that portion of the funeral 11492
director's bill allocated to cemetery expenses that have been paid 11493
to the cemetery by the funeral director. 11494

For purposes of this division, burial and cemetery expenses 11495
shall be limited to the following: 11496

(a) The purchase of a place of interment; 11497

(b) Monuments or other markers; 11498

(c) The outer burial container; 11499

(d) The cost of opening and closing the place of interment; 11500

(e) The urn. 11501

(3) The allowance for support made to the surviving spouse, 11502
minor children, or both under section 2106.13 of the Revised Code; 11503

(4) Debts entitled to a preference under the laws of the 11504
United States; 11505

(5) Expenses of the last sickness of the decedent; 11506

(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 11538
presented. The executor or administrator shall pay debts included 11539
in divisions (A)(4) and (7) of this section, of which the executor 11540
or administrator has knowledge, regardless of presentation. 11541

(2) The giving of written notice to an executor or 11542
administrator of a motion or application to revive an action 11543
pending against the decedent at the date of death shall be 11544
equivalent to the presentation of a claim to the executor or 11545
administrator for the purpose of determining the order of payment 11546
of any judgment rendered or decree entered in such an action. 11547

(E) No payments shall be made to creditors of one class until 11548
all those of the preceding class are fully paid or provided for. 11549
If the assets are insufficient to pay all the claims of one class, 11550
the creditors of that class shall be paid ratably. 11551

(F) If it appears at any time that the assets have been 11552
exhausted in paying prior or preferred charges, allowances, or 11553
claims, those payments shall be a bar to an action on any claim 11554
not entitled to that priority or preference. 11555

Sec. 2151.011. (A) As used in the Revised Code: 11556

(1) "Juvenile court" means whichever of the following is 11557
applicable that has jurisdiction under this chapter and Chapter 11558
2152. of the Revised Code: 11559

(a) The division of the court of common pleas specified in 11560
section 2101.022 or 2301.03 of the Revised Code as having 11561
jurisdiction under this chapter and Chapter 2152. of the Revised 11562
Code or as being the juvenile division or the juvenile division 11563
combined with one or more other divisions; 11564

(b) The juvenile court of Cuyahoga county or Hamilton county 11565
that is separately and independently created by section 2151.08 or 11566
Chapter 2153. of the Revised Code and that has jurisdiction under 11567

this chapter and Chapter 2152. of the Revised Code; 11568

(c) If division (A)(1)(a) or (b) of this section does not 11569
apply, the probate division of the court of common pleas. 11570

(2) "Juvenile judge" means a judge of a court having 11571
jurisdiction under this chapter. 11572

(3) "Private child placing agency" means any association, as 11573
defined in section 5103.02 of the Revised Code, that is certified 11574
under section 5103.03 of the Revised Code to accept temporary, 11575
permanent, or legal custody of children and place the children for 11576
either foster care or adoption. 11577

(4) "Private noncustodial agency" means any person, 11578
organization, association, or society certified by the department 11579
of job and family services that does not accept temporary or 11580
permanent legal custody of children, that is privately operated in 11581
this state, and that does one or more of the following: 11582

(a) Receives and cares for children for two or more 11583
consecutive weeks; 11584

(b) Participates in the placement of children in certified 11585
foster homes; 11586

(c) Provides adoption services in conjunction with a public 11587
children services agency or private child placing agency. 11588

(B) As used in this chapter: 11589

(1) "Adequate parental care" means the provision by a child's 11590
parent or parents, guardian, or custodian of adequate food, 11591
clothing, and shelter to ensure the child's health and physical 11592
safety and the provision by a child's parent or parents of 11593
specialized services warranted by the child's physical or mental 11594
needs. 11595

(2) "Adult" means an individual who is eighteen years of age 11596
or older. 11597

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(5) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(6) "Child day camp," "child day-care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(7) "Child day-care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of mental retardation and developmental disabilities, or the early childhood programs of the department of education.

- (8) "Chronic truant" has the same meaning as in section 11629
2152.02 of the Revised Code. 11630
- (9) "Commit" means to vest custody as ordered by the court. 11631
- (10) "Counseling" includes both of the following: 11632
- (a) General counseling services performed by a public 11633
children services agency or shelter for victims of domestic 11634
violence to assist a child, a child's parents, and a child's 11635
siblings in alleviating identified problems that may cause or have 11636
caused the child to be an abused, neglected, or dependent child. 11637
- (b) Psychiatric or psychological therapeutic counseling 11638
services provided to correct or alleviate any mental or emotional 11639
illness or disorder and performed by a licensed psychiatrist, 11640
licensed psychologist, or a person licensed under Chapter 4757. of 11641
the Revised Code to engage in social work or professional 11642
counseling. 11643
- (11) "Custodian" means a person who has legal custody of a 11644
child or a public children services agency or private child 11645
placing agency that has permanent, temporary, or legal custody of 11646
a child. 11647
- (12) "Delinquent child" has the same meaning as in section 11648
2152.02 of the Revised Code. 11649
- (13) "Detention" means the temporary care of children pending 11650
court adjudication or disposition, or execution of a court order, 11651
in a public or private facility designed to physically restrict 11652
the movement and activities of children. 11653
- (14) "Developmental disability" has the same meaning as in 11654
section 5123.01 of the Revised Code. 11655
- (15) "Foster caregiver" has the same meaning as in section 11656
5103.02 of the Revised Code. 11657
- (16) "Guardian" means a person, association, or corporation 11658

that is granted authority by a probate court pursuant to Chapter 11659
2111. of the Revised Code to exercise parental rights over a child 11660
to the extent provided in the court's order and subject to the 11661
residual parental rights of the child's parents. 11662

(17) "Habitual truant" means any child of compulsory school 11663
age who is absent without legitimate excuse for absence from the 11664
public school the child is supposed to attend for five or more 11665
consecutive school days, seven or more school days in one school 11666
month, or twelve or more school days in a school year. 11667

(18) "Juvenile traffic offender" has the same meaning as in 11668
section 2152.02 of the Revised Code. 11669

(19) "Legal custody" means a legal status that vests in the 11670
custodian the right to have physical care and control of the child 11671
and to determine where and with whom the child shall live, and the 11672
right and duty to protect, train, and discipline the child and to 11673
provide the child with food, shelter, education, and medical care, 11674
all subject to any residual parental rights, privileges, and 11675
responsibilities. An individual granted legal custody shall 11676
exercise the rights and responsibilities personally unless 11677
otherwise authorized by any section of the Revised Code or by the 11678
court. 11679

(20) A "legitimate excuse for absence from the public school 11680
the child is supposed to attend" includes, but is not limited to, 11681
any of the following: 11682

(a) The fact that the child in question has enrolled in and 11683
is attending another public or nonpublic school in this or another 11684
state; 11685

(b) The fact that the child in question is excused from 11686
attendance at school for any of the reasons specified in section 11687
3321.04 of the Revised Code; 11688

(c) The fact that the child in question has received an age 11689

and schooling certificate in accordance with section 3331.01 of 11690
the Revised Code. 11691

(21) "Mental illness" and "mentally ill person subject to 11692
hospitalization by court order" have the same meanings as in 11693
section 5122.01 of the Revised Code. 11694

(22) "Mental injury" means any behavioral, cognitive, 11695
emotional, or mental disorder in a child caused by an act or 11696
omission that is described in section 2919.22 of the Revised Code 11697
and is committed by the parent or other person responsible for the 11698
child's care. 11699

(23) "Mentally retarded person" has the same meaning as in 11700
section 5123.01 of the Revised Code. 11701

(24) "Nonsecure care, supervision, or training" means care, 11702
supervision, or training of a child in a facility that does not 11703
confine or prevent movement of the child within the facility or 11704
from the facility. 11705

(25) "Of compulsory school age" has the same meaning as in 11706
section 3321.01 of the Revised Code. 11707

(26) "Organization" means any institution, public, 11708
semipublic, or private, and any private association, society, or 11709
agency located or operating in the state, incorporated or 11710
unincorporated, having among its functions the furnishing of 11711
protective services or care for children, or the placement of 11712
children in certified foster homes or elsewhere. 11713

(27) "Out-of-home care" means detention facilities, shelter 11714
facilities, certified foster homes, placement in a prospective 11715
adoptive home prior to the issuance of a final decree of adoption, 11716
organizations, certified organizations, child day-care centers, 11717
type A family day-care homes, child day-care provided by type B 11718
family day-care home providers and by in-home aides, group home 11719
providers, group homes, institutions, state institutions, 11720

residential facilities, residential care facilities, residential
camps, day camps, hospitals, and medical clinics that are
responsible for the care, physical custody, or control of
children.

(28) "Out-of-home care child abuse" means any of the
following when committed by a person responsible for the care of a
child in out-of-home care:

(a) Engaging in sexual activity with a child in the person's
care;

(b) Denial to a child, as a means of punishment, of proper or
necessary subsistence, education, medical care, or other care
necessary for a child's health;

(c) Use of restraint procedures on a child that cause injury
or pain;

(d) Administration of prescription drugs or psychotropic
medication to the child without the written approval and ongoing
supervision of a licensed physician;

(e) Commission of any act, other than by accidental means,
that results in any injury to or death of the child in out-of-home
care or commission of any act by accidental means that results in
an injury to or death of a child in out-of-home care and that is
at variance with the history given of the injury or death.

(29) "Out-of-home care child neglect" means any of the
following when committed by a person responsible for the care of a
child in out-of-home care:

(a) Failure to provide reasonable supervision according to
the standards of care appropriate to the age, mental and physical
condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to
the standards of care appropriate to the age, mental and physical

condition, or other special needs of the child, that results in	11751
sexual or physical abuse of the child by any person;	11752
(c) Failure to develop a process for all of the following:	11753
(i) Administration of prescription drugs or psychotropic	11754
drugs for the child;	11755
(ii) Assuring that the instructions of the licensed physician	11756
who prescribed a drug for the child are followed;	11757
(iii) Reporting to the licensed physician who prescribed the	11758
drug all unfavorable or dangerous side effects from the use of the	11759
drug.	11760
(d) Failure to provide proper or necessary subsistence,	11761
education, medical care, or other individualized care necessary	11762
for the health or well-being of the child;	11763
(e) Confinement of the child to a locked room without	11764
monitoring by staff;	11765
(f) Failure to provide ongoing security for all prescription	11766
and nonprescription medication;	11767
(g) Isolation of a child for a period of time when there is	11768
substantial risk that the isolation, if continued, will impair or	11769
retard the mental health or physical well-being of the child.	11770
(30) "Permanent custody" means a legal status that vests in a	11771
public children services agency or a private child placing agency,	11772
all parental rights, duties, and obligations, including the right	11773
to consent to adoption, and divests the natural parents or	11774
adoptive parents of all parental rights, privileges, and	11775
obligations, including all residual rights and obligations.	11776
(31) "Permanent surrender" means the act of the parents or,	11777
if a child has only one parent, of the parent of a child, by a	11778
voluntary agreement authorized by section 5103.15 of the Revised	11779
Code, to transfer the permanent custody of the child to a public	11780

children services agency or a private child placing agency.	11781
(32) "Person responsible for a child's care in out-of-home care" means any of the following:	11782
	11783
(a) Any foster caregiver, in-home aide, or provider;	11784
(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; hospital; or medical clinic;	11785
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(c) Any other person who performs a similar function with respect to, or has a similar relationship to, children.	11792
	11793
(33) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:	11794
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	11797
(a) A substantial impairment of vision, speech, or hearing;	11798
(b) A congenital orthopedic impairment;	11799
(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.	11800
	11801
	11802
(34) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.	11803
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(35) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.	11807
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(36) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(37) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(38) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(39) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(40) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(41) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(42) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for

recreational or recreational and educational purposes. 11841

(43) "Residential care facility" means an institution, 11842
residence, or facility that is licensed by the department of 11843
mental health under section 5119.22 of the Revised Code and that 11844
provides care for a child. 11845

(44) "Residential facility" means a home or facility that is 11846
licensed by the department of mental retardation and developmental 11847
disabilities under section 5123.19 of the Revised Code and in 11848
which a child with a developmental disability resides. 11849

(45) "Residual parental rights, privileges, and 11850
responsibilities" means those rights, privileges, and 11851
responsibilities remaining with the natural parent after the 11852
transfer of legal custody of the child, including, but not 11853
necessarily limited to, the privilege of reasonable visitation, 11854
consent to adoption, the privilege to determine the child's 11855
religious affiliation, and the responsibility for support. 11856

(46) "School day" means the school day established by the 11857
~~state~~ board of education of the applicable school district 11858
pursuant to section ~~3313.48~~ 3313.481 of the Revised Code. 11859

(47) "School ~~month~~ and "school year" ~~have~~ has the same 11860
~~meanings~~ meaning as in section 3313.62 of the Revised Code. 11861

(48) "Secure correctional facility" means a facility under 11862
the direction of the department of youth services that is designed 11863
to physically restrict the movement and activities of children and 11864
used for the placement of children after adjudication and 11865
disposition. 11866

(49) "Sexual activity" has the same meaning as in section 11867
2907.01 of the Revised Code. 11868

(50) "Shelter" means the temporary care of children in 11869
physically unrestricted facilities pending court adjudication or 11870

disposition. 11871

(51) "Shelter for victims of domestic violence" has the same 11872
meaning as in section 3113.33 of the Revised Code. 11873

(52) "Temporary custody" means legal custody of a child who 11874
is removed from the child's home, which custody may be terminated 11875
at any time at the discretion of the court or, if the legal 11876
custody is granted in an agreement for temporary custody, by the 11877
person who executed the agreement. 11878

(C) For the purposes of this chapter, a child shall be 11879
presumed abandoned when the parents of the child have failed to 11880
visit or maintain contact with the child for more than ninety 11881
days, regardless of whether the parents resume contact with the 11882
child after that period of ninety days. 11883

Sec. 2151.352. A Except as otherwise provided in this 11884
section, a child, or the child's parents, or custodian, or any 11885
other person in loco parentis of such the child is entitled to 11886
representation by legal counsel at all stages of the proceedings 11887
under this chapter or Chapter 2152. of the Revised Code and if, 11888
If, as an indigent person, any such person a party is unable to 11889
employ counsel, the party is entitled to have counsel provided for 11890
the person pursuant to Chapter 120. of the Revised Code. If a 11891
party appears without counsel, the court shall ascertain whether 11892
the party knows of the party's right to counsel and of the party's 11893
right to be provided with counsel if the party is an indigent 11894
person. The court may continue the case to enable a party to 11895
obtain counsel or to be represented by the county public defender 11896
or the joint county public defender and shall provide counsel upon 11897
request pursuant to Chapter 120. of the Revised Code. Counsel must 11898
be provided for a child not represented by the child's parent, 11899
guardian, or custodian. If the interests of two or more ~~such~~ 11900
parties conflict, separate counsel shall be provided for each of 11901

them. 11902

This section does not confer the right to court-appointed 11903
counsel in civil actions arising under division (A)(2), (D), or 11904
(F) of section 2151.23 or division (C) of section 3111.13 of the 11905
Revised Code. 11906

Section 2935.14 of the Revised Code applies to any child 11907
taken into custody. The parents, custodian, or guardian of ~~such a~~ 11908
child taken into custody, and any attorney at law representing 11909
them or the child, shall be entitled to visit ~~such~~ the child at 11910
any reasonable time, be present at any hearing involving the 11911
child, and be given reasonable notice of ~~such~~ the hearing. 11912

Any report or part ~~thereof~~ of a report concerning ~~such the~~ 11913
child, which is used in the hearing and is pertinent ~~thereto to~~ 11914
the hearing, shall for good cause shown be made available to any 11915
attorney at law representing ~~such the~~ child and to any attorney at 11916
law representing the parents, custodian, or guardian of ~~such the~~ 11917
child, upon written request prior to any hearing involving ~~such~~ 11918
the child. 11919

Sec. 2151.3529. (A) The director of job and family services 11920
shall promulgate forms designed to gather pertinent medical 11921
information concerning a deserted child and the child's parents. 11922
The forms shall clearly and unambiguously state on each page that 11923
the information requested is to facilitate medical care for the 11924
child, that the forms may be fully or partially completed or left 11925
blank, that completing the forms or parts of the forms is 11926
completely voluntary, and that no adverse legal consequence will 11927
result from failure to complete any part of the forms. 11928

(B) The director shall promulgate written materials to be 11929
given to the parents of a child delivered pursuant to section 11930
2151.3516 of the Revised Code. The materials shall describe 11931
services available to assist parents and newborns and shall 11932

include information directly relevant to situations that might 11933
cause parents to desert a child and information on the procedures 11934
for a person to follow in order to reunite with a child the person 11935
delivered under section 2151.3516 of the Revised Code, including 11936
notice that the person will be required to submit to a DNA test, 11937
at that person's expense, to prove that the person is the parent 11938
of the child. 11939

(C) If the department of job and family services determines 11940
that money in the putative father registry fund created under 11941
section 2101.16 of the Revised Code is more than is needed for its 11942
duties related to the putative father registry, the department may 11943
use surplus moneys in the fund for costs related to the 11944
development and publication of forms and materials promulgated 11945
pursuant to divisions (A) and (B) of this section. 11946

Sec. 2151.3530. (A) The director of job and family services 11947
shall distribute the medical information forms and written 11948
materials promulgated under section 2151.3529 of the Revised Code 11949
to entities permitted to receive a deserted child, to public 11950
children services agencies, and to other public or private 11951
agencies that, in the discretion of the director, are best able to 11952
disseminate the forms and materials to the persons who are most in 11953
need of the forms and materials. 11954

(B) If the department of job and family services determines 11955
that money in the putative father registry fund created under 11956
section 2101.16 of the Revised Code is more than is needed to 11957
perform its duties related to the putative father registry, the 11958
department may use surplus moneys in the fund for costs related to 11959
the distribution of forms and materials pursuant to this section. 11960

Sec. 2151.83. (A) A public children services agency or 11961
private child placing agency, on the request of a young adult, 11962

shall enter into a jointly prepared written agreement with the 11963
young adult that obligates the agency to ensure that independent 11964
living services are provided to the young adult and sets forth the 11965
responsibilities of the young adult regarding the services. The 11966
agreement shall be developed based on the young adult's strengths, 11967
needs, and circumstances ~~and the availability of funds provided~~ 11968
~~pursuant to section 2151.84 of the Revised Code.~~ The agreement 11969
shall be designed to promote the young adult's successful 11970
transition to independent adult living and emotional and economic 11971
self-sufficiency. 11972

(B) If the young adult appears to be eligible for services 11973
from one or more of the following entities, the agency must 11974
contact the appropriate entity to determine eligibility: 11975

(1) An entity, other than the agency, that is represented on 11976
a county family and children first council established pursuant to 11977
section 121.37 of the Revised Code. If the entity is a board of 11978
alcohol, drug addiction, and mental health services, an alcohol 11979
and drug addiction services board, or a community mental health 11980
board, the agency shall contact the provider of alcohol, drug 11981
addiction, or mental health services that has been designated by 11982
the board to determine the young adult's eligibility for services. 11983

(2) The rehabilitation services commission; 11984

(3) A metropolitan housing authority established pursuant to 11985
section 3735.27 of the Revised Code. 11986

If an entity described in this division determines that the 11987
young adult qualifies for services from the entity, that entity, 11988
the young adult, and the agency to which the young adult made the 11989
request for independent living services shall enter into a written 11990
addendum to the jointly prepared agreement entered into under 11991
division (A) of this section. The addendum shall indicate how 11992
services under the agreement and addendum are to be coordinated 11993

and allocate the service responsibilities among the entities and 11994
agency that signed the addendum. 11995

Sec. 2151.84. The department of job and family services shall 11996
establish model agreements that may be used by public children 11997
services agencies and private child placing agencies required to 11998
provide services under an agreement with a young adult pursuant to 11999
section 2151.83 of the Revised Code. The model agreements shall 12000
include provisions describing the specific independent living 12001
services to be provided ~~to the extent funds are provided pursuant~~ 12002
~~to this section~~, the duration of the services and the agreement, 12003
the duties and responsibilities of each party under the agreement, 12004
and grievance procedures regarding disputes that arise regarding 12005
the agreement or services provided under it. 12006

~~To facilitate the provision of independent living services,~~ 12007
~~the department shall provide funds to meet the requirement of~~ 12008
~~state matching funds needed to qualify for federal funds under the~~ 12009
~~"Foster Care Independence Act of 1999," 113 Stat. 1822 (1999), 42~~ 12010
~~U.S.C. 677, as amended. The department shall seek controlling~~ 12011
~~board approval of any fund transfers necessary to meet this~~ 12012
~~requirement.~~ 12013

Sec. 2301.58. (A) The director of the community-based 12014
correctional facility or district community-based correctional 12015
facility may establish a commissary for the facility. The 12016
commissary may be established either in-house or by another 12017
arrangement. If a commissary is established, all persons 12018
incarcerated in the facility shall receive commissary privileges. 12019
A person's purchases from the commissary shall be deducted from 12020
the person's account record in the facility's business office. The 12021
commissary shall provide for the distribution to indigent persons 12022
incarcerated in the facility necessary hygiene articles and 12023
writing materials. 12024

(B) If a commissary is established, the director of the community-based correctional facility or district community-based correctional facility shall establish a commissary fund for the facility. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the facility and to pay salary and benefits for employees of the facility, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The director of the community-based correctional facility or district community-based correctional facility shall adopt rules and regulations for the operation of any commissary fund the director establishes.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised

Code to practice medicine and surgery or osteopathic medicine and surgery;	12055 12056
(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	12057 12058
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	12059 12060
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	12061 12062
(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	12063 12064
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	12065 12066
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	12067 12068
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	12069 12070
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	12071 12072
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	12073 12074
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	12075 12076 12077 12078
(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, dental assistants, orderlies, aides, and individuals acting in	12079 12080 12081 12082 12083 12084

similar capacities. 12085

(6) "Indigent and uninsured person" means a person who meets 12086
all of the following requirements: 12087

(a) The person's income is not greater than one hundred fifty 12088
per cent of the current poverty line as defined by the United 12089
States office of management and budget and revised in accordance 12090
with section 673(2) of the "Omnibus Budget Reconciliation Act of 12091
1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 12092

(b) The person is not eligible to receive medical assistance 12093
under Chapter 5111., ~~disability assistance~~ medical assistance 12094
under Chapter 5115. of the Revised Code, or assistance under any 12095
other governmental health care program. 12096

(c) Either of the following applies: 12097

(i) The person is not a policyholder, certificate holder, 12098
insured, contract holder, subscriber, enrollee, member, 12099
beneficiary, or other covered individual under a health insurance 12100
or health care policy, contract, or plan. 12101

(ii) The person is a policyholder, certificate holder, 12102
insured, contract holder, subscriber, enrollee, member, 12103
beneficiary, or other covered individual under a health insurance 12104
or health care policy, contract, or plan, but the insurer, policy, 12105
contract, or plan denies coverage or is the subject of insolvency 12106
or bankruptcy proceedings in any jurisdiction. 12107

(7) "Operation" means any procedure that involves cutting or 12108
otherwise infiltrating human tissue by mechanical means, including 12109
surgery, laser surgery, ionizing radiation, therapeutic 12110
ultrasound, or the removal of intraocular foreign bodies. 12111
"Operation" does not include the administration of medication by 12112
injection, unless the injection is administered in conjunction 12113
with a procedure infiltrating human tissue by mechanical means 12114
other than the administration of medicine by injection. 12115

(8) "Nonprofit shelter or health care facility" means a 12116
charitable nonprofit corporation organized and operated pursuant 12117
to Chapter 1702. of the Revised Code, or any charitable 12118
organization not organized and not operated for profit, that 12119
provides shelter, health care services, or shelter and health care 12120
services to indigent and uninsured persons, except that "shelter 12121
or health care facility" does not include a hospital as defined in 12122
section 3727.01 of the Revised Code, a facility licensed under 12123
Chapter 3721. of the Revised Code, or a medical facility that is 12124
operated for profit. 12125

(9) "Tort action" means a civil action for damages for 12126
injury, death, or loss to person or property other than a civil 12127
action for damages for a breach of contract or another agreement 12128
between persons or government entities. 12129

(10) "Volunteer" means an individual who provides any 12130
medical, dental, or other health-care related diagnosis, care, or 12131
treatment without the expectation of receiving and without receipt 12132
of any compensation or other form of remuneration from an indigent 12133
and uninsured person, another person on behalf of an indigent and 12134
uninsured person, any shelter or health care facility, or any 12135
other person or government entity. 12136

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 12137
health care professional who is a volunteer and complies with 12138
division (B)(2) of this section is not liable in damages to any 12139
person or government entity in a tort or other civil action, 12140
including an action on a medical, dental, chiropractic, 12141
optometric, or other health-related claim, for injury, death, or 12142
loss to person or property that allegedly arises from an action or 12143
omission of the volunteer in the provision at a nonprofit shelter 12144
or health care facility to an indigent and uninsured person of 12145
medical, dental, or other health-related diagnosis, care, or 12146
treatment, including the provision of samples of medicine and 12147

other medical products, unless the action or omission constitutes willful or wanton misconduct. 12148
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(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment: 12150
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(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence; 12153
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(b) Inform the person of the provisions of this section; 12157

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. 12158
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(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code. 12165
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(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes 12169
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willful or wanton misconduct. 12179

(D) Subject to divisions (E) and (F)(3) of this section and 12180
section 3701.071 of the Revised Code, a nonprofit shelter or 12181
health care facility associated with a health care professional 12182
described in division (B)(1) of this section or a health care 12183
worker described in division (C) of this section is not liable in 12184
damages to any person or government entity in a tort or other 12185
civil action, including an action on a medical, dental, 12186
chiropractic, optometric, or other health-related claim, for 12187
injury, death, or loss to person or property that allegedly arises 12188
from an action or omission of the health care professional or 12189
worker in providing for the shelter or facility medical, dental, 12190
or other health-related diagnosis, care, or treatment to an 12191
indigent and uninsured person, unless the action or omission 12192
constitutes willful or wanton misconduct. 12193

(E)(1) Except as provided in division (E)(2) of this section, 12194
the immunities provided by divisions (B), (C), and (D) of this 12195
section are not available to an individual or to a nonprofit 12196
shelter or health care facility if, at the time of an alleged 12197
injury, death, or loss to person or property, the individuals 12198
involved are providing one of the following: 12199

(a) Any medical, dental, or other health-related diagnosis, 12200
care, or treatment pursuant to a community service work order 12201
entered by a court under division (F) of section 2951.02 of the 12202
Revised Code as a condition of probation or other suspension of a 12203
term of imprisonment or imposed by a court as a community control 12204
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 12205
Code. 12206

(b) Performance of an operation. 12207

(c) Delivery of a baby. 12208

(2) Division (E)(1) of this section does not apply to an 12209

individual who provides, or a nonprofit shelter or health care 12210
facility at which the individual provides, diagnosis, care, or 12211
treatment that is necessary to preserve the life of a person in a 12212
medical emergency. 12213

(F)(1) This section does not create a new cause of action or 12214
substantive legal right against a health care professional, health 12215
care worker, or nonprofit shelter or health care facility. 12216

(2) This section does not affect any immunities from civil 12217
liability or defenses established by another section of the 12218
Revised Code or available at common law to which an individual or 12219
a nonprofit shelter or health care facility may be entitled in 12220
connection with the provision of emergency or other diagnosis, 12221
care, or treatment. 12222

(3) This section does not grant an immunity from tort or 12223
other civil liability to an individual or a nonprofit shelter or 12224
health care facility for actions that are outside the scope of 12225
authority of health care professionals or health care workers. 12226

(4) This section does not affect any legal responsibility of 12227
a health care professional or health care worker to comply with 12228
any applicable law of this state or rule of an agency of this 12229
state. 12230

(5) This section does not affect any legal responsibility of 12231
a nonprofit shelter or health care facility to comply with any 12232
applicable law of this state, rule of an agency of this state, or 12233
local code, ordinance, or regulation that pertains to or regulates 12234
building, housing, air pollution, water pollution, sanitation, 12235
health, fire, zoning, or safety. 12236

Sec. 2329.07. If neither execution on a judgment rendered in 12237
a court of record or certified to the clerk of the court of common 12238
pleas in the county in which the judgment was rendered is issued, 12239

nor a certificate of judgment for obtaining a lien upon lands and 12240
tenements is issued and filed, as provided in sections 2329.02 and 12241
2329.04 of the Revised Code, within five years from the date of 12242
the judgment or within five years from the date of the issuance of 12243
the last execution thereon or the issuance and filing of the last 12244
such certificate, whichever is later, then, unless the judgment is 12245
in favor of the state, the judgment shall be dormant and shall not 12246
operate as a lien upon the estate of the judgment debtor. 12247

If the judgment is in favor of the state, the judgment shall 12248
not become dormant and shall not cease to operate as a lien 12249
against the estate of the judgment debtor ~~unless neither such~~ 12250
provided that either execution on the judgment is issued ~~nor such~~ 12251
or a certificate of judgment is issued and filed, as provided in 12252
sections 2329.02 and 2329.04 of the Revised Code, within ten years 12253
from the date of the judgment ~~or within ten years from the date of~~ 12254
~~the issuance of the last execution thereon or the issuance and~~ 12255
~~filing of the last such certificate, whichever is later.~~ 12256

If, in any county other than that in which a judgment was 12257
rendered, the judgment has become a lien by reason of the filing, 12258
in the office of the clerk of the court of common pleas of that 12259
county, of a certificate of the judgment as provided in sections 12260
2329.02 and 2329.04 of the Revised Code, and if no execution is 12261
issued for the enforcement of the judgment within that county, or 12262
no further certificate of the judgment is filed in that county, 12263
within five years ~~or, if the judgment is in favor of the state,~~ 12264
~~within ten years~~ from the date of issuance of the last execution 12265
for the enforcement of the judgment within that county or the date 12266
of filing of the last certificate in that county, whichever is the 12267
later, then the judgment shall cease to operate as a lien upon 12268
lands and tenements of the judgment debtor within that county, 12269
unless the judgment is in favor of the state, in which case the 12270
judgment shall not become dormant. 12271

~~This section applies to judgments in favor of the state.~~ 12272

Sec. 2329.66. (A) Every person who is domiciled in this state 12273
may hold property exempt from execution, garnishment, attachment, 12274
or sale to satisfy a judgment or order, as follows: 12275

(1)(a) In the case of a judgment or order regarding money 12276
owed for health care services rendered or health care supplies 12277
provided to the person or a dependent of the person, one parcel or 12278
item of real or personal property that the person or a dependent 12279
of the person uses as a residence. Division (A)(1)(a) of this 12280
section does not preclude, affect, or invalidate the creation 12281
under this chapter of a judgment lien upon the exempted property 12282
but only delays the enforcement of the lien until the property is 12283
sold or otherwise transferred by the owner or in accordance with 12284
other applicable laws to a person or entity other than the 12285
surviving spouse or surviving minor children of the judgment 12286
debtor. Every person who is domiciled in this state may hold 12287
exempt from a judgment lien created pursuant to division (A)(1)(a) 12288
of this section the person's interest, not to exceed five thousand 12289
dollars, in the exempted property. 12290

(b) In the case of all other judgments and orders, the 12291
person's interest, not to exceed five thousand dollars, in one 12292
parcel or item of real or personal property that the person or a 12293
dependent of the person uses as a residence. 12294

(2) The person's interest, not to exceed one thousand 12295
dollars, in one motor vehicle; 12296

(3) The person's interest, not to exceed two hundred dollars 12297
in any particular item, in wearing apparel, beds, and bedding, and 12298
the person's interest, not to exceed three hundred dollars in each 12299
item, in one cooking unit and one refrigerator or other food 12300
preservation unit; 12301

(4)(a) The person's interest, not to exceed four hundred 12302
dollars, in cash on hand, money due and payable, money to become 12303
due within ninety days, tax refunds, and money on deposit with a 12304
bank, savings and loan association, credit union, public utility, 12305
landlord, or other person. Division (A)(4)(a) of this section 12306
applies only in bankruptcy proceedings. This exemption may include 12307
the portion of personal earnings that is not exempt under division 12308
(A)(13) of this section. 12309

(b) Subject to division (A)(4)(d) of this section, the 12310
person's interest, not to exceed two hundred dollars in any 12311
particular item, in household furnishings, household goods, 12312
appliances, books, animals, crops, musical instruments, firearms, 12313
and hunting and fishing equipment, that are held primarily for the 12314
personal, family, or household use of the person; 12315

(c) Subject to division (A)(4)(d) of this section, the 12316
person's interest in one or more items of jewelry, not to exceed 12317
four hundred dollars in one item of jewelry and not to exceed two 12318
hundred dollars in every other item of jewelry; 12319

(d) Divisions (A)(4)(b) and (c) of this section do not 12320
include items of personal property listed in division (A)(3) of 12321
this section. 12322

If the person does not claim an exemption under division 12323
(A)(1) of this section, the total exemption claimed under division 12324
(A)(4)(b) of this section shall be added to the total exemption 12325
claimed under division (A)(4)(c) of this section, and the total 12326
shall not exceed two thousand dollars. If the person claims an 12327
exemption under division (A)(1) of this section, the total 12328
exemption claimed under division (A)(4)(b) of this section shall 12329
be added to the total exemption claimed under division (A)(4)(c) 12330
of this section, and the total shall not exceed one thousand five 12331
hundred dollars. 12332

(5) The person's interest, not to exceed an aggregate of	12333
seven hundred fifty dollars, in all implements, professional	12334
books, or tools of the person's profession, trade, or business,	12335
including agriculture;	12336
(6)(a) The person's interest in a beneficiary fund set apart,	12337
appropriated, or paid by a benevolent association or society, as	12338
exempted by section 2329.63 of the Revised Code;	12339
(b) The person's interest in contracts of life or endowment	12340
insurance or annuities, as exempted by section 3911.10 of the	12341
Revised Code;	12342
(c) The person's interest in a policy of group insurance or	12343
the proceeds of a policy of group insurance, as exempted by	12344
section 3917.05 of the Revised Code;	12345
(d) The person's interest in money, benefits, charity,	12346
relief, or aid to be paid, provided, or rendered by a fraternal	12347
benefit society, as exempted by section 3921.18 of the Revised	12348
Code;	12349
(e) The person's interest in the portion of benefits under	12350
policies of sickness and accident insurance and in lump sum	12351
payments for dismemberment and other losses insured under those	12352
policies, as exempted by section 3923.19 of the Revised Code.	12353
(7) The person's professionally prescribed or medically	12354
necessary health aids;	12355
(8) The person's interest in a burial lot, including, but not	12356
limited to, exemptions under section 517.09 or 1721.07 of the	12357
Revised Code;	12358
(9) The person's interest in the following:	12359
(a) Moneys paid or payable for living maintenance or rights,	12360
as exempted by section 3304.19 of the Revised Code;	12361
(b) Workers' compensation, as exempted by section 4123.67 of	12362

the Revised Code; 12363

(c) Unemployment compensation benefits, as exempted by 12364
section 4141.32 of the Revised Code; 12365

(d) Cash assistance payments under the Ohio works first 12366
program, as exempted by section 5107.75 of the Revised Code; 12367

(e) Benefits and services under the prevention, retention, 12368
and contingency program, as exempted by section 5108.08 of the 12369
Revised Code; 12370

(f) Disability financial assistance payments, as exempted by 12371
section ~~5115.07~~ 5115.06 of the Revised Code. 12372

(10)(a) Except in cases in which the person was convicted of 12373
or pleaded guilty to a violation of section 2921.41 of the Revised 12374
Code and in which an order for the withholding of restitution from 12375
payments was issued under division (C)(2)(b) of that section or in 12376
cases in which an order for withholding was issued under section 12377
2907.15 of the Revised Code, and only to the extent provided in 12378
the order, and except as provided in sections 3105.171, 3105.63, 12379
3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised 12380
Code, the person's right to a pension, benefit, annuity, 12381
retirement allowance, or accumulated contributions, the person's 12382
right to a participant account in any deferred compensation 12383
program offered by the Ohio public employees deferred compensation 12384
board, a government unit, or a municipal corporation, or the 12385
person's other accrued or accruing rights, as exempted by section 12386
145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of 12387
the Revised Code, and the person's right to benefits from the Ohio 12388
public safety officers death benefit fund; 12389

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 12390
3121.03, and 3123.06 of the Revised Code, the person's right to 12391
receive a payment under any pension, annuity, or similar plan or 12392
contract, not including a payment from a stock bonus or 12393

profit-sharing plan or a payment included in division (A)(6)(b) or 12394
(10)(a) of this section, on account of illness, disability, death, 12395
age, or length of service, to the extent reasonably necessary for 12396
the support of the person and any of the person's dependents, 12397
except if all the following apply: 12398

(i) The plan or contract was established by or under the 12399
auspices of an insider that employed the person at the time the 12400
person's rights under the plan or contract arose. 12401

(ii) The payment is on account of age or length of service. 12402

(iii) The plan or contract is not qualified under the 12403
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 12404
amended. 12405

(c) Except for any portion of the assets that were deposited 12406
for the purpose of evading the payment of any debt and except as 12407
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 12408
3123.06 of the Revised Code, the person's right in the assets held 12409
in, or to receive any payment under, any individual retirement 12410
account, individual retirement annuity, "Roth IRA," or education 12411
individual retirement account that provides benefits by reason of 12412
illness, disability, death, or age, to the extent that the assets, 12413
payments, or benefits described in division (A)(10)(c) of this 12414
section are attributable to any of the following: 12415

(i) Contributions of the person that were less than or equal 12416
to the applicable limits on deductible contributions to an 12417
individual retirement account or individual retirement annuity in 12418
the year that the contributions were made, whether or not the 12419
person was eligible to deduct the contributions on the person's 12420
federal tax return for the year in which the contributions were 12421
made; 12422

(ii) Contributions of the person that were less than or equal 12423
to the applicable limits on contributions to a Roth IRA or 12424

education individual retirement account in the year that the 12425
contributions were made; 12426

(iii) Contributions of the person that are within the 12427
applicable limits on rollover contributions under subsections 219, 12428
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 12429
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 12430
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 12431

(d) Except for any portion of the assets that were deposited 12432
for the purpose of evading the payment of any debt and except as 12433
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 12434
3123.06 of the Revised Code, the person's right in the assets held 12435
in, or to receive any payment under, any Keogh or "H.R. 10" plan 12436
that provides benefits by reason of illness, disability, death, or 12437
age, to the extent reasonably necessary for the support of the 12438
person and any of the person's dependents. 12439

(11) The person's right to receive spousal support, child 12440
support, an allowance, or other maintenance to the extent 12441
reasonably necessary for the support of the person and any of the 12442
person's dependents; 12443

(12) The person's right to receive, or moneys received during 12444
the preceding twelve calendar months from, any of the following: 12445

(a) An award of reparations under sections 2743.51 to 2743.72 12446
of the Revised Code, to the extent exempted by division (D) of 12447
section 2743.66 of the Revised Code; 12448

(b) A payment on account of the wrongful death of an 12449
individual of whom the person was a dependent on the date of the 12450
individual's death, to the extent reasonably necessary for the 12451
support of the person and any of the person's dependents; 12452

(c) Except in cases in which the person who receives the 12453
payment is an inmate, as defined in section 2969.21 of the Revised 12454
Code, and in which the payment resulted from a civil action or 12455

appeal against a government entity or employee, as defined in 12456
section 2969.21 of the Revised Code, a payment, not to exceed five 12457
thousand dollars, on account of personal bodily injury, not 12458
including pain and suffering or compensation for actual pecuniary 12459
loss, of the person or an individual for whom the person is a 12460
dependent; 12461

(d) A payment in compensation for loss of future earnings of 12462
the person or an individual of whom the person is or was a 12463
dependent, to the extent reasonably necessary for the support of 12464
the debtor and any of the debtor's dependents. 12465

(13) Except as provided in sections 3119.80, 3119.81, 12466
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 12467
earnings of the person owed to the person for services in an 12468
amount equal to the greater of the following amounts: 12469

(a) If paid weekly, thirty times the current federal minimum 12470
hourly wage; if paid biweekly, sixty times the current federal 12471
minimum hourly wage; if paid semimonthly, sixty-five times the 12472
current federal minimum hourly wage; or if paid monthly, one 12473
hundred thirty times the current federal minimum hourly wage that 12474
is in effect at the time the earnings are payable, as prescribed 12475
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 12476
U.S.C. 206(a)(1), as amended; 12477

(b) Seventy-five per cent of the disposable earnings owed to 12478
the person. 12479

(14) The person's right in specific partnership property, as 12480
exempted by division (B)(3) of section 1775.24 of the Revised 12481
Code; 12482

(15) A seal and official register of a notary public, as 12483
exempted by section 147.04 of the Revised Code; 12484

(16) The person's interest in a tuition credit or a payment 12485
under section 3334.09 of the Revised Code pursuant to a tuition 12486

credit contract, as exempted by section 3334.15 of the Revised Code;	12487 12488
(17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended;	12489 12490 12491 12492
(18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings.	12493 12494 12495
(B) As used in this section:	12496
(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code.	12497 12498 12499 12500
(2) "Insider" means:	12501
(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;	12502 12503 12504 12505 12506
(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;	12507 12508 12509 12510 12511 12512
(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a	12513 12514 12515 12516

general partner of, or a person in control of the partnership;	12517
(d) An entity or person to which or whom any of the following applies:	12518
	12519
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	12520
	12521
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	12526
(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.	12527
	12528
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	12531
(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.	12532
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	12535
(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.	12536
	12537
	12538
(e) An insider, as otherwise defined in this section, of a person or entity to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;	12539
	12540
	12541
	12542
(f) A managing agent of the person who claims an exemption.	12543
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	12544
	12545
(4) "Government unit" has the same meaning as in section	12546

148.06 of the Revised Code. 12547

(C) For purposes of this section, "interest" shall be 12548
determined as follows: 12549

(1) In bankruptcy proceedings, as of the date a petition is 12550
filed with the bankruptcy court commencing a case under Title 11 12551
of the United States Code; 12552

(2) In all cases other than bankruptcy proceedings, as of the 12553
date of an appraisal, if necessary under section 2329.68 of the 12554
Revised Code, or the issuance of a writ of execution. 12555

An interest, as determined under division (C)(1) or (2) of 12556
this section, shall not include the amount of any lien otherwise 12557
valid pursuant to section 2329.661 of the Revised Code. 12558

Sec. 2715.041. (A) Upon the filing of a motion for an order 12559
of attachment pursuant to section 2715.03 of the Revised Code, the 12560
plaintiff shall file with the clerk of the court a praecipe 12561
instructing the clerk to issue to the defendant against whom the 12562
motion was filed a notice of the proceeding. Upon receipt of the 12563
praecipe, the clerk shall issue the notice which shall be in 12564
substantially the following form: 12565

"(Name and Address of Court) 12566
Case No..... 12567

(Case Caption) 12568

NOTICE 12569

You are hereby notified that (name and address of plaintiff), 12570
the plaintiff in this proceeding, has applied to this court for 12571
the attachment of property in your possession. The basis for this 12572
application is indicated in the documents that are enclosed with 12573
this notice. 12574

The law of Ohio and the United States provides that certain 12575
benefit payments cannot be taken from you to pay a debt. Typical 12576

among the benefits that cannot be attached or executed on by a	12577
creditor are:	12578
(1) Workers' compensation benefits;	12579
(2) Unemployment compensation payments;	12580
(3) Cash assistance payments under the Ohio works first	12581
program;	12582
(4) Benefits and services under the prevention, retention,	12583
and contingency program;	12584
(5) Disability <u>financial</u> assistance administered by the Ohio	12585
department of job and family services;	12586
(6) Social security benefits;	12587
(7) Supplemental security income (S.S.I.);	12588
(8) Veteran's benefits;	12589
(9) Black lung benefits;	12590
(10) Certain pensions.	12591
Additionally, your wages never can be taken to pay a debt	12592
until a judgment has been obtained against you. There may be other	12593
benefits not included in this list that apply in your case.	12594
If you dispute the plaintiff's claim and believe that you are	12595
entitled to retain possession of the property because it is exempt	12596
or for any other reason, you may request a hearing before this	12597
court by disputing the claim in the request for hearing form	12598
appearing below, or in a substantially similar form, and	12599
delivering the request for the hearing to this court, at the	12600
office of the clerk of this court, not later than the end of the	12601
fifth business day after you receive this notice. You may state	12602
your reasons for disputing the claim in the space provided on the	12603
form, but you are not required to do so. If you do state your	12604
reasons for disputing the claim in the space provided on the form,	12605

you are not prohibited from stating any other reasons at the 12606
hearing, and if you do not state your reasons, it will not be held 12607
against you by the court and you can state your reasons at the 12608
hearing. 12609

If you request a hearing, it will be conducted in 12610
..... courtroom, (address of court), at 12611
.....m. on, 12612

You may avoid having a hearing but retain possession of the 12613
property until the entry of final judgment in the action by filing 12614
with the court, at the office of the clerk of this court, not 12615
later than the end of the fifth business day after you receive 12616
this notice, a bond executed by an acceptable surety in the amount 12617
of \$..... 12618

If you do not request a hearing or file a bond on or before 12619
the end of the fifth business day after you receive this notice, 12620
the court, without further notice to you, may order a law 12621
enforcement officer or bailiff to take possession of the property. 12622
Notice of the dates, times, places, and purposes of any subsequent 12623
hearings and of the date, time, and place of the trial of the 12624
action will be sent to you. 12625

..... 12626

Clerk of Court 12627

Date:....." 12628

(B) Along with the notice required by division (A) of this 12629
section, the clerk of the court also shall deliver to the 12630
defendant, in accordance with division (C) of this section, a 12631
request for hearing form together with a postage-paid, 12632
self-addressed envelope or a request for hearing form on a 12633
postage-paid, self-addressed postcard. The request for hearing 12634
shall be in substantially the following form: 12635

"(Name and Address of Court) 12636

Case Number Date 12637

REQUEST FOR HEARING

12638

I dispute the claim for the attachment of property in the
above case and request that a hearing in this matter be held at
the time and place set forth in the notice that I previously
received.

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I dispute the claim for the following reasons:

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.....

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(Optional)

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(Name of Defendant)

12649

.....

12650

(Signature)

12651

.....

12652

(Date)

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WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT,
YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE
REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING."

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(C) The notice required by division (A) of this section shall
be served on the defendant in duplicate not less than seven
business days prior to the date on which the hearing is scheduled,
together with a copy of the complaint and summons, if not
previously served, and a copy of the motion for the attachment of
property and the affidavit attached to the motion, in the same
manner as provided in the Rules of Civil Procedure for the service
of process. Service may be effected by publication as provided in
the Rules of Civil Procedure except that the number of weeks for

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publication may be reduced by the court to the extent appropriate. 12668

Sec. 2715.045. (A) Upon the filing of a motion for 12669
attachment, a court may issue an order of attachment without 12670
issuing notice to the defendant against whom the motion was filed 12671
and without conducting a hearing if the court finds that there is 12672
probable cause to support the motion and that the plaintiff that 12673
filed the motion for attachment will suffer irreparable injury if 12674
the order is delayed until the defendant against whom the motion 12675
has been filed has been given the opportunity for a hearing. The 12676
court's findings shall be based upon the motion and affidavit 12677
filed pursuant to section 2715.03 of the Revised Code and any 12678
other relevant evidence that it may wish to consider. 12679

(B) A finding by the court that the plaintiff will suffer 12680
irreparable injury may be made only if the court finds the 12681
existence of either of the following circumstances: 12682

(1) There is present danger that the property will be 12683
immediately disposed of, concealed, or placed beyond the 12684
jurisdiction of the court. 12685

(2) The value of the property will be impaired substantially 12686
if the issuance of an order of attachment is delayed. 12687

(C)(1) Upon the issuance by a court of an order of attachment 12688
without notice and hearing pursuant to this section, the plaintiff 12689
shall file the order with the clerk of the court, together with a 12690
praecipe instructing the clerk to issue to the defendant against 12691
whom the order was issued a copy of the motion, affidavit, and 12692
order of attachment, and a notice that an order of attachment was 12693
issued and that the defendant has a right to a hearing on the 12694
matter. The clerk then immediately shall serve upon the defendant, 12695
in the manner provided by the Rules of Civil Procedure for service 12696
of process, a copy of the complaint and summons, if not previously 12697
served, a copy of the motion, affidavit, and order of attachment, 12698

and the following notice:	12699
"(Name and Address of the Court)	12700
(Case Caption) Case No.	12701
NOTICE	12702
You are hereby notified that this court has issued an order	12703
in the above case in favor of (name and address of plaintiff), the	12704
plaintiff in this proceeding, directing that property now in your	12705
possession, be taken from you. This order was issued on the basis	12706
of the plaintiff's claim against you as indicated in the documents	12707
that are enclosed with this notice.	12708
The law of Ohio and the United States provides that certain	12709
benefit payments cannot be taken from you to pay a debt. Typical	12710
among the benefits that cannot be attached or executed on by a	12711
creditor are:	12712
(1) Workers' compensation benefits;	12713
(2) Unemployment compensation payments;	12714
(3) Cash assistance payments under the Ohio works first	12715
program;	12716
(4) Benefits and services under the prevention, retention,	12717
and contingency program;	12718
(5) Disability <u>financial</u> assistance administered by the Ohio	12719
department of job and family services;	12720
(6) Social security benefits;	12721
(7) Supplemental security income (S.S.I.);	12722
(8) Veteran's benefits;	12723
(9) Black lung benefits;	12724
(10) Certain pensions.	12725
Additionally, your wages never can be taken to pay a debt	12726
until a judgment has been obtained against you. There may be other	12727

benefits not included in this list that apply in your case. 12728

If you dispute the plaintiff's claim and believe that you are 12729
entitled to possession of the property because it is exempt or for 12730
any other reason, you may request a hearing before this court by 12731
disputing the claim in the request for hearing form, appearing 12732
below, or in a substantially similar form, and delivering the 12733
request for hearing to this court at the above address, at the 12734
office of the clerk of this court, no later than the end of the 12735
fifth business day after you receive this notice. You may state 12736
your reasons for disputing the claim in the space provided on the 12737
form; however, you are not required to do so. If you do state your 12738
reasons for disputing the claim, you are not prohibited from 12739
stating any other reasons at the hearing, and if you do not state 12740
your reasons, it will not be held against you by the court and you 12741
can state your reasons at the hearing. If you request a hearing, 12742
it will be held within three business days after delivery of your 12743
request for hearing and notice of the date, time, and place of the 12744
hearing will be sent to you. 12745

You may avoid a hearing but recover and retain possession of 12746
the property until the entry of final judgment in the action by 12747
filing with the court, at the office of the clerk of this court, 12748
not later than the end of the fifth business day after you receive 12749
this notice, a bond executed by an acceptable surety in the amount 12750
of \$..... 12751

If you do not request a hearing or file a bond before the end 12752
of the fifth business day after you receive this notice, 12753
possession of the property will be withheld from you during the 12754
pendency of the action. Notice of the dates, times, places, and 12755
purposes of any subsequent hearings and of the date, time, and 12756
place of the trial of the action will be sent to you. 12757

..... 12758

Clerk of the Court 12759

(D) The defendant may receive a hearing in accordance with 12790
section 2715.043 of the Revised Code by delivering a written 12791
request for hearing to the court within five business days after 12792
receipt of the notice provided pursuant to division (C) of this 12793
section. The request may set forth the defendant's reasons for 12794
disputing the plaintiff's claim for possession of property. 12795
However, neither the defendant's inclusion of nor failure to 12796
include such reasons upon the request constitutes a waiver of any 12797
defense of the defendant or affects the defendant's right to 12798
produce evidence at any hearing or at the trial of the action. If 12799
the request is made by the defendant, the court shall schedule a 12800
hearing within three business days after the request is made, send 12801
notice to the parties of the date, time, and place of the hearing, 12802
and hold the hearing accordingly. 12803

(E) If, after hearing, the court finds that there is not 12804
probable cause to support the motion, it shall order that the 12805
property be redelivered to the defendant without the condition of 12806
bond. 12807

Sec. 2716.13. (A) Upon the filing of a proceeding in 12808
garnishment of property, other than personal earnings, under 12809
section 2716.11 of the Revised Code, the court shall cause the 12810
matter to be set for hearing within twelve days after that filing. 12811

(B) Upon the scheduling of a hearing relative to a proceeding 12812
in garnishment of property, other than personal earnings, under 12813
division (A) of this section, the clerk of the court immediately 12814
shall issue to the garnishee three copies of the order of 12815
garnishment of property, other than personal earnings, and of a 12816
written notice that the garnishee answer as provided in section 12817
2716.21 of the Revised Code and the garnishee's fee required by 12818
section 2716.12 of the Revised Code. The copies of the order and 12819
of the notice shall be served upon the garnishee in the same 12820

manner as a summons is served. The copies of the order and of the 12821
notice shall not be served later than seven days prior to the date 12822
on which the hearing is scheduled. The order shall bind the 12823
property, other than personal earnings, of the judgment debtor in 12824
the possession of the garnishee at the time of service. 12825

The order of garnishment of property, other than personal 12826
earnings, and notice to answer shall be in substantially the 12827
following form: 12828

"ORDER AND NOTICE OF GARNISHMENT 12829
OF PROPERTY OTHER THAN PERSONAL EARNINGS 12830
AND ANSWER OF GARNISHEE 12831
Docket No. 12832
Case No. 12833
In the Court 12834
....., Ohio 12835

The State of Ohio 12836

County of, ss 12837

....., Judgment Creditor 12838

vs. 12839

....., Judgment Debtor 12840

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT 12841

To:, Garnishee 12842

The judgment creditor in the above case has filed an 12843
affidavit, satisfactory to the undersigned, in this Court stating 12844
that you have money, property, or credits, other than personal 12845
earnings, in your hands or under your control that belong to the 12846
judgment debtor, and that some of the money, property, or credits 12847
may not be exempt from garnishment under the laws of the State of 12848
Ohio or the laws of the United States. 12849

You are therefore ordered to complete the "ANSWER OF 12850

2. That property is described as:	12882
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.	12883 12884 12885 12886
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.	12887 12888 12889 12890
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.	12891 12892 12893 12894 12895
6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.	12896 12897
I certify that the statements above are true.	12898
.....	12899
(Print Name of Garnishee)	12900
.....	12901
(Print Name and Title of	12902
Person Who Completed Form)	12903
Signed.....	12904
(Signature of Person Completing Form)	12905
Dated this day of,"	12906
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	12907 12908 12909 12910 12911

signed copy of the form and shall deliver the other completed and 12912
signed copy of the form to the judgment debtor. 12913

If several affidavits seeking orders of garnishment of 12914
property, other than personal earnings, are filed against the same 12915
judgment debtor in accordance with section 2716.11 of the Revised 12916
Code, the court involved shall issue the requested orders in the 12917
same order in which the clerk received the associated affidavits. 12918

(C)(1) At the time of the filing of a proceeding in 12919
garnishment of property, other than personal earnings, under 12920
section 2716.11 of the Revised Code, the judgment creditor also 12921
shall file with the clerk of the court a praecipe instructing the 12922
clerk to issue to the judgment debtor a notice to the judgment 12923
debtor form and a request for hearing form. Upon receipt of the 12924
praecipe and the scheduling of a hearing relative to an action in 12925
garnishment of property, other than personal earnings, under 12926
division (A) of this section, the clerk of the court immediately 12927
shall serve upon the judgment debtor, in accordance with division 12928
(D) of this section, two copies of the notice to the judgment 12929
debtor form and of the request for hearing form. The copies of the 12930
notice to the judgment debtor form and of the request for hearing 12931
form shall not be served later than seven days prior to the date 12932
on which the hearing is scheduled. 12933

(a) The notice to the judgment debtor that must be served 12934
upon the judgment debtor shall be in substantially the following 12935
form: 12936

"(Name and Address of the Court) 12937

(Case Caption) Case No. 12938

NOTICE TO THE JUDGMENT DEBTOR 12939

You are hereby notified that this court has issued an order 12940
in the above case in favor of (name and address of judgment 12941
creditor), the judgment creditor in this proceeding, directing 12942

that some of your money, property, or credits, other than personal 12943
earnings, now in the possession of (name and address of 12944
garnishee), the garnishee in this proceeding, be used to satisfy 12945
your debt to the judgment creditor. This order was issued on the 12946
basis of the judgment creditor's judgment against you that was 12947
obtained in (name of court) in (case number) on (date). Upon your 12948
receipt of this notice, you are prohibited from removing or 12949
attempting to remove the money, property, or credits until 12950
expressly permitted by the court. Any violation of this 12951
prohibition subjects you to punishment for contempt of court. 12952

The law of Ohio and the United States provides that certain 12953
benefit payments cannot be taken from you to pay a debt. Typical 12954
among the benefits that cannot be attached or executed upon by a 12955
creditor are the following: 12956

(1) Workers' compensation benefits; 12957

(2) Unemployment compensation payments; 12958

(3) Cash assistance payments under the Ohio works first 12959
program; 12960

(4) Benefits and services under the prevention, retention, 12961
and contingency program; 12962

(5) Disability financial assistance administered by the Ohio 12963
department of job and family services; 12964

(6) Social security benefits; 12965

(7) Supplemental security income (S.S.I.); 12966

(8) Veteran's benefits; 12967

(9) Black lung benefits; 12968

(10) Certain pensions. 12969

There may be other benefits not included in the above list 12970
that apply in your case. 12971

If you dispute the judgment creditor's right to garnish your property and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted in courtroom, (address of court), at m. on, You may request the court to conduct the hearing before this date by indicating your request in the space provided on the form; the court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a

hearing by delivering your request for a hearing no later than the 13004
end of the fifth business day after you receive this notice, some 13005
of your money, property, or credits, other than personal earnings, 13006
will be paid to the judgment creditor. 13007

If you have any questions concerning this matter, you may 13008
contact the office of the clerk of this court. If you want legal 13009
representation, you should contact your lawyer immediately. If you 13010
need the name of a lawyer, contact the local bar association. 13011

..... 13012
Clerk of the Court 13013
..... 13014
Date" 13015

(b) The request for hearing form that must be served upon the 13016
judgment debtor shall have attached to it a postage-paid, 13017
self-addressed envelope or shall be on a postage-paid 13018
self-addressed postcard, and shall be in substantially the 13019
following form: 13020

"(Name and Address of Court) 13021

Case Number Date 13022

REQUEST FOR HEARING 13023

I dispute the judgment creditor's right to garnish my money, 13024
property, or credits, other than personal earnings, in the above 13025
case and request that a hearing in this matter be held 13026

..... 13027

(Insert "on" or "earlier than") 13028

the date and time set forth in the document entitled "NOTICE TO 13029
THE JUDGMENT DEBTOR" that I received with this request form. 13030

I dispute the judgment creditor's right to garnish my 13031
property for the following reasons: 13032

..... 13033

(Optional)	13034
.....	13035
.....	13036
I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL	13037
BE HEARD OR CONSIDERED AT THE HEARING.	13038
.....	13039
(Name of Judgment Debtor)	13040
.....	13041
(Signature)	13042
.....	13043
(Date)	13044
WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A	13045
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK	13046
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT,	13047
YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY,	13048
PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE	13049
POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT	13050
CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT	13051
CREDITOR'S NAME)."	13052
(2) The judgment debtor may receive a hearing in accordance	13053
with this division by delivering a written request for hearing to	13054
the court within five business days after receipt of the notice	13055
provided pursuant to division (C)(1) of this section. The request	13056
may set forth the judgment debtor's reasons for disputing the	13057
judgment creditor's right to garnish the money, property, or	13058
credits, other than personal earnings; however, neither the	13059
judgment debtor's inclusion of nor failure to include those	13060
reasons upon the request constitutes a waiver of any defense of	13061
the judgment debtor or affects the judgment debtor's right to	13062
produce evidence at the hearing. If the request is made by the	13063
judgment debtor within the prescribed time, the hearing shall be	13064

limited to a consideration of the amount of money, property, or 13065
credits, other than personal earnings, of the judgment debtor in 13066
the hands of the garnishee, if any, that can be used to satisfy 13067
all or part of the debt owed by the judgment debtor to the 13068
judgment creditor. If a request for a hearing is not received by 13069
the court within the prescribed time, the hearing scheduled 13070
pursuant to division (A) of this section shall be canceled unless 13071
the court grants the judgment debtor a continuance in accordance 13072
with division (C)(3) of this section. 13073

(3) If the judgment debtor does not request a hearing in the 13074
action within the prescribed time pursuant to division (C)(2) of 13075
this section, the court nevertheless may grant a continuance of 13076
the scheduled hearing if the judgment debtor, prior to the time at 13077
which the hearing was scheduled, as indicated on the notice to the 13078
judgment debtor required by division (C)(1) of this section, 13079
establishes a reasonable justification for failure to request the 13080
hearing within the prescribed time. If the court grants a 13081
continuance of the hearing, it shall cause the matter to be set 13082
for hearing as soon as practicable thereafter. The continued 13083
hearing shall be conducted in accordance with division (C)(2) of 13084
this section. 13085

(4) The court may conduct the hearing on the matter prior to 13086
the time at which the hearing was scheduled, as indicated on the 13087
notice to the judgment debtor required by division (C)(1) of this 13088
section, upon the request of the judgment debtor. The parties 13089
shall be sent notice, by the clerk of the court, by regular mail, 13090
of any change in the date, time, or place of the hearing. 13091

(5) If the scheduled hearing is canceled and no continuance 13092
is granted, the court shall issue an order to the garnishee to pay 13093
all or some of the money, property, or credits, other than 13094
personal earnings, of the judgment debtor in the possession of the 13095
garnishee at the time of service of the notice and order into 13096

court if they have not already been paid to the court. This order 13097
shall be based on the answer of the garnishee filed pursuant to 13098
this section. If the scheduled hearing is conducted or if it is 13099
continued and conducted, the court shall determine at the hearing 13100
the amount of the money, property, or credits, other than personal 13101
earnings, of the judgment debtor in the possession of the 13102
garnishee at the time of service of the notice and order, if any, 13103
that can be used to satisfy all or part of the debt owed by the 13104
judgment debtor to the judgment creditor, and issue an order, 13105
accordingly, to the garnishee to pay that amount into court if it 13106
has not already been paid to the court. 13107

(D) The notice to the judgment debtor form and the request 13108
for hearing form described in division (C) of this section shall 13109
be sent by the clerk by ordinary or regular mail service unless 13110
the judgment creditor requests that service be made in accordance 13111
with the Rules of Civil Procedure, in which case the forms shall 13112
be served in accordance with the Rules of Civil Procedure. Any 13113
court of common pleas that issues an order of garnishment of 13114
property, other than personal earnings, under this section has 13115
jurisdiction to serve process pursuant to this section upon a 13116
garnishee who does not reside within the jurisdiction of the 13117
court. Any county court or municipal court that issues an order of 13118
garnishment of property, other than personal earnings, under this 13119
section has jurisdiction to serve process pursuant to this section 13120
upon a garnishee who does not reside within the jurisdiction of 13121
the court. 13122

Sec. 2743.02. (A)(1) The state hereby waives its immunity 13123
from liability, except as provided for the office of the state 13124
fire marshal in division (G)(1) of section 9.60 and division (B) 13125
of section 3737.221 of the Revised Code and subject to division 13126
(H) of this section, and consents to be sued, and have its 13127
liability determined, in the court of claims created in this 13128

chapter in accordance with the same rules of law applicable to 13129
suits between private parties, except that the determination of 13130
liability is subject to the limitations set forth in this chapter 13131
and, in the case of state universities or colleges, in section 13132
3345.40 of the Revised Code, and except as provided in division 13133
(A)(2) of this section. To the extent that the state has 13134
previously consented to be sued, this chapter has no 13135
applicability. 13136

Except in the case of a civil action filed by the state, 13137
filing a civil action in the court of claims results in a complete 13138
waiver of any cause of action, based on the same act or omission, 13139
which the filing party has against any officer or employee, as 13140
defined in section 109.36 of the Revised Code. The waiver shall be 13141
void if the court determines that the act or omission was 13142
manifestly outside the scope of the officer's or employee's office 13143
or employment or that the officer or employee acted with malicious 13144
purpose, in bad faith, or in a wanton or reckless manner. 13145

(2) If a claimant proves in the court of claims that an 13146
officer or employee, as defined in section 109.36 of the Revised 13147
Code, would have personal liability for the officer's or 13148
employee's acts or omissions but for the fact that the officer or 13149
employee has personal immunity under section 9.86 of the Revised 13150
Code, the state shall be held liable in the court of claims in any 13151
action that is timely filed pursuant to section 2743.16 of the 13152
Revised Code and that is based upon the acts or omissions. 13153

(B) The state hereby waives the immunity from liability of 13154
all hospitals owned or operated by one or more political 13155
subdivisions and consents for them to be sued, and to have their 13156
liability determined, in the court of common pleas, in accordance 13157
with the same rules of law applicable to suits between private 13158
parties, subject to the limitations set forth in this chapter. 13159
This division is also applicable to hospitals owned or operated by 13160

political subdivisions which have been determined by the supreme 13161
court to be subject to suit prior to July 28, 1975. 13162

(C) Any hospital, as defined in section 2305.113 of the 13163
Revised Code, may purchase liability insurance covering its 13164
operations and activities and its agents, employees, nurses, 13165
interns, residents, staff, and members of the governing board and 13166
committees, and, whether or not such insurance is purchased, may, 13167
to such extent as its governing board considers appropriate, 13168
indemnify or agree to indemnify and hold harmless any such person 13169
against expense, including attorney's fees, damage, loss, or other 13170
liability arising out of, or claimed to have arisen out of, the 13171
death, disease, or injury of any person as a result of the 13172
negligence, malpractice, or other action or inaction of the 13173
indemnified person while acting within the scope of the 13174
indemnified person's duties or engaged in activities at the 13175
request or direction, or for the benefit, of the hospital. Any 13176
hospital electing to indemnify such persons, or to agree to so 13177
indemnify, shall reserve such funds as are necessary, in the 13178
exercise of sound and prudent actuarial judgment, to cover the 13179
potential expense, fees, damage, loss, or other liability. The 13180
superintendent of insurance may recommend, or, if such hospital 13181
requests the superintendent to do so, the superintendent shall 13182
recommend, a specific amount for any period that, in the 13183
superintendent's opinion, represents such a judgment. This 13184
authority is in addition to any authorization otherwise provided 13185
or permitted by law. 13186

(D) Recoveries against the state shall be reduced by the 13187
aggregate of insurance proceeds, disability award, or other 13188
collateral recovery received by the claimant. This division does 13189
not apply to civil actions in the court of claims against a state 13190
university or college under the circumstances described in section 13191
3345.40 of the Revised Code. The collateral benefits provisions of 13192

division (B)(2) of that section apply under those circumstances. 13193

(E) The only defendant in original actions in the court of 13194
claims is the state. The state may file a third-party complaint or 13195
counterclaim in any civil action, except a civil action for two 13196
thousand five hundred dollars or less, that is filed in the court 13197
of claims. 13198

(F) A civil action against an officer or employee, as defined 13199
in section 109.36 of the Revised Code, that alleges that the 13200
officer's or employee's conduct was manifestly outside the scope 13201
of the officer's or employee's employment or official 13202
responsibilities, or that the officer or employee acted with 13203
malicious purpose, in bad faith, or in a wanton or reckless manner 13204
shall first be filed against the state in the court of claims, 13205
which has exclusive, original jurisdiction to determine, 13206
initially, whether the officer or employee is entitled to personal 13207
immunity under section 9.86 of the Revised Code and whether the 13208
courts of common pleas have jurisdiction over the civil action. 13209

The filing of a claim against an officer or employee under 13210
this division tolls the running of the applicable statute of 13211
limitations until the court of claims determines whether the 13212
officer or employee is entitled to personal immunity under section 13213
9.86 of the Revised Code. 13214

(G) Whenever a claim lies against an officer or employee who 13215
is a member of the Ohio national guard, and the officer or 13216
employee was, at the time of the act or omission complained of, 13217
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 13218
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 13219
exclusive remedy of the claimant and the state has no liability 13220
under this section. 13221

(H) If an inmate of a state correctional institution has a 13222
claim against the state for the loss of or damage to property and 13223

the amount claimed does not exceed three hundred dollars, before 13224
commencing an action against the state in the court of claims, the 13225
inmate shall file a claim for the loss or damage under the rules 13226
adopted by the director of rehabilitation and correction pursuant 13227
to this division. The inmate shall file the claim within the time 13228
allowed for commencement of a civil action under section 2743.16 13229
of the Revised Code. If the state admits or compromises the claim, 13230
the director shall make payment from a fund designated by the 13231
director for that purpose. If the state denies the claim or does 13232
not compromise the claim at least sixty days prior to expiration 13233
of the time allowed for commencement of a civil action based upon 13234
the loss or damage under section 2743.16 of the Revised Code, the 13235
inmate may commence an action in the court of claims under this 13236
chapter to recover damages for the loss or damage. 13237

The director of rehabilitation and correction shall adopt 13238
rules pursuant to Chapter 119. of the Revised Code to implement 13239
this division. 13240

Sec. 2921.13. (A) No person shall knowingly make a false 13241
statement, or knowingly swear or affirm the truth of a false 13242
statement previously made, when any of the following applies: 13243

(1) The statement is made in any official proceeding. 13244

(2) The statement is made with purpose to incriminate 13245
another. 13246

(3) The statement is made with purpose to mislead a public 13247
official in performing the public official's official function. 13248

(4) The statement is made with purpose to secure the payment 13249
of unemployment compensation; Ohio works first; prevention, 13250
retention, and contingency benefits and services; disability 13251
financial assistance; retirement benefits; economic development 13252
assistance, as defined in section 9.66 of the Revised Code; or 13253

other benefits administered by a governmental agency or paid out 13254
of a public treasury. 13255

(5) The statement is made with purpose to secure the issuance 13256
by a governmental agency of a license, permit, authorization, 13257
certificate, registration, release, or provider agreement. 13258

(6) The statement is sworn or affirmed before a notary public 13259
or another person empowered to administer oaths. 13260

(7) The statement is in writing on or in connection with a 13261
report or return that is required or authorized by law. 13262

(8) The statement is in writing and is made with purpose to 13263
induce another to extend credit to or employ the offender, to 13264
confer any degree, diploma, certificate of attainment, award of 13265
excellence, or honor on the offender, or to extend to or bestow 13266
upon the offender any other valuable benefit or distinction, when 13267
the person to whom the statement is directed relies upon it to 13268
that person's detriment. 13269

(9) The statement is made with purpose to commit or 13270
facilitate the commission of a theft offense. 13271

(10) The statement is knowingly made to a probate court in 13272
connection with any action, proceeding, or other matter within its 13273
jurisdiction, either orally or in a written document, including, 13274
but not limited to, an application, petition, complaint, or other 13275
pleading, or an inventory, account, or report. 13276

(11) The statement is made on an account, form, record, 13277
stamp, label, or other writing that is required by law. 13278

(12) The statement is made in connection with the purchase of 13279
a firearm, as defined in section 2923.11 of the Revised Code, and 13280
in conjunction with the furnishing to the seller of the firearm of 13281
a fictitious or altered driver's or commercial driver's license or 13282
permit, a fictitious or altered identification card, or any other 13283

document that contains false information about the purchaser's 13284
identity. 13285

(13) The statement is made in a document or instrument of 13286
writing that purports to be a judgment, lien, or claim of 13287
indebtedness and is filed or recorded with the secretary of state, 13288
a county recorder, or the clerk of a court of record. 13289

(B) No person, in connection with the purchase of a firearm, 13290
as defined in section 2923.11 of the Revised Code, shall knowingly 13291
furnish to the seller of the firearm a fictitious or altered 13292
driver's or commercial driver's license or permit, a fictitious or 13293
altered identification card, or any other document that contains 13294
false information about the purchaser's identity. 13295

(C) It is no defense to a charge under division (A)(4) of 13296
this section that the oath or affirmation was administered or 13297
taken in an irregular manner. 13298

(D) If contradictory statements relating to the same fact are 13299
made by the offender within the period of the statute of 13300
limitations for falsification, it is not necessary for the 13301
prosecution to prove which statement was false but only that one 13302
or the other was false. 13303

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 13304
(6), (7), (8), (10), (11), or (13) of this section is guilty of 13305
falsification, a misdemeanor of the first degree. 13306

(2) Whoever violates division (A)(9) of this section is 13307
guilty of falsification in a theft offense. Except as otherwise 13308
provided in this division, falsification in a theft offense is a 13309
misdemeanor of the first degree. If the value of the property or 13310
services stolen is five hundred dollars or more and is less than 13311
five thousand dollars, falsification in a theft offense is a 13312
felony of the fifth degree. If the value of the property or 13313
services stolen is five thousand dollars or more and is less than 13314

one hundred thousand dollars, falsification in a theft offense is 13315
a felony of the fourth degree. If the value of the property or 13316
services stolen is one hundred thousand dollars or more, 13317
falsification in a theft offense is a felony of the third degree. 13318

(3) Whoever violates division (A)(12) or (B) of this section 13319
is guilty of falsification to purchase a firearm, a felony of the 13320
fifth degree. 13321

(F) A person who violates this section is liable in a civil 13322
action to any person harmed by the violation for injury, death, or 13323
loss to person or property incurred as a result of the commission 13324
of the offense and for reasonable attorney's fees, court costs, 13325
and other expenses incurred as a result of prosecuting the civil 13326
action commenced under this division. A civil action under this 13327
division is not the exclusive remedy of a person who incurs 13328
injury, death, or loss to person or property as a result of a 13329
violation of this section. 13330

Sec. 2929.38. (A) A board of commissioners of a county, in an 13331
agreement with the sheriff, a legislative authority of a municipal 13332
corporation, a corrections commission, a judicial corrections 13333
board, or any other public or private entity that operates a local 13334
detention facility described in division (A) of section 2929.37 of 13335
the Revised Code, may establish a policy that requires any 13336
prisoner who is confined in the facility as a result of pleading 13337
guilty to or having been convicted of an offense to pay a one-time 13338
reception fee for the costs of processing the prisoner into the 13339
facility at the time of the prisoner's initial entry into the 13340
facility under the confinement in question, to pay a reasonable 13341
fee for any medical or dental treatment or service requested by 13342
and provided to that prisoner, and to pay the fee for a random 13343
drug test assessed under division (E) of section 341.26, and 13344
division (E) of section 753.33 of the Revised Code. The fee for 13345

the medical treatment or service shall not exceed the actual cost 13346
of the treatment or service provided. No prisoner confined in the 13347
local detention facility shall be denied any necessary medical 13348
care because of inability to pay the fees. 13349

(B) Upon assessment of a one-time reception fee as described 13350
in division (A) of this section, the provision of the requested 13351
medical treatment or service, or the assessment of a fee for a 13352
random drug test, payment of the required fee may be automatically 13353
deducted from the prisoner's inmate account in the business office 13354
of the local detention facility in which the prisoner is confined. 13355
If there is no money in the account, a deduction may be made at a 13356
later date during the prisoner's confinement if the money becomes 13357
available in the account. If, after release, the prisoner has an 13358
unpaid balance of those fees, the sheriff, legislative authority 13359
of the municipal corporation, corrections commission, judicial 13360
corrections board, or other entity that operates the local 13361
detention facility described in division (A) of section 2929.37 of 13362
the Revised Code may bill the prisoner for the payment of the 13363
unpaid fees. Fees received for medical or dental treatment or 13364
services shall be paid to the commissary fund, if one exists for 13365
the facility, or if no commissary fund exists, to the general fund 13366
of the treasury of the political subdivision that incurred the 13367
expenses, in the same proportion as those expenses were borne by 13368
the political subdivision. Fees received for medical treatment or 13369
services that are placed in the commissary fund under this 13370
division shall be used for the same purposes as profits from the 13371
commissary fund, except that they shall not be used to pay any 13372
salary or benefits of any person who works in or is employed for 13373
the sole purpose of providing service to the commissary. 13374

(C) Any fee paid by a person under this section shall be 13375
deducted from any medical or dental costs that the person is 13376
ordered to reimburse under section 2929.36 of the Revised Code or 13377

to repay under a policy adopted under section 2929.37 of the Revised Code. 13378
13379

(D) As used in this section, "inmate account" has the same meaning as in section 2969.21 of the Revised Code. 13380
13381

Sec. 2935.36. (A) The prosecuting attorney may establish pre-trial diversion programs for adults who are accused of committing criminal offenses and whom the prosecuting attorney believes probably will not offend again. The prosecuting attorney may require, as a condition of an accused's participation in the program, the accused to pay a reasonable fee for supervision services that include, but are not limited to, monitoring and drug testing. The programs shall be operated pursuant to written standards approved by journal entry by the presiding judge or, in courts with only one judge, the judge of the court of common pleas and shall not be applicable to any of the following: 13382
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(1) Repeat offenders or dangerous offenders; 13393

(2) Persons accused of an offense of violence, of a violation of section 2903.06, 2907.04, 2907.05, 2907.21, 2907.22, 2907.31, 2907.32, 2907.34, 2911.31, 2919.12, 2919.13, 2919.22, 2921.02, 2921.11, 2921.12, 2921.32, or 2923.20 of the Revised Code, or of a violation of section 2905.01, 2905.02, or 2919.23 of the Revised Code that, had it occurred prior to July 1, 1996, would have been a violation of section 2905.04 of the Revised Code as it existed prior to that date, with the exception that the prosecuting attorney may permit persons accused of any such offense to enter a pre-trial diversion program, if the prosecuting attorney finds any of the following: 13394
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(a) The accused did not cause, threaten, or intend serious physical harm to any person; 13405
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(b) The offense was the result of circumstances not likely to 13407

recur; 13408

(c) The accused has no history of prior delinquency or 13409
criminal activity; 13410

(d) The accused has led a law-abiding life for a substantial 13411
time before commission of the alleged offense; 13412

(e) Substantial grounds tending to excuse or justify the 13413
alleged offense. 13414

(3) Persons accused of a violation of Chapter 2925. or 3719. 13415
of the Revised Code; 13416

(4) Drug dependent persons or persons in danger of becoming 13417
drug dependent persons, as defined in section 3719.011 of the 13418
Revised Code. However, this division does not affect the 13419
eligibility of such persons for intervention in lieu of conviction 13420
pursuant to section 2951.041 of the Revised Code. 13421

(5) Persons accused of a violation of section 4511.19 of the 13422
Revised Code or a violation of any substantially similar municipal 13423
ordinance. 13424

(B) An accused who enters a diversion program shall do all of 13425
the following: 13426

(1) Waive, in writing and contingent upon the accused's 13427
successful completion of the program, the accused's right to a 13428
speedy trial, the preliminary hearing, the time period within 13429
which the grand jury may consider an indictment against the 13430
accused, and arraignment, unless the hearing, indictment, or 13431
arraignment has already occurred; 13432

(2) Agree, in writing, to the tolling while in the program of 13433
all periods of limitation established by statutes or rules of 13434
court, that are applicable to the offense with which the accused 13435
is charged and to the conditions of the diversion program 13436
established by the prosecuting attorney; 13437

(3) Agree, in writing, to pay any reasonable fee for 13438
supervision services established by the prosecuting attorney. 13439

(C) The trial court, upon the application of the prosecuting 13440
attorney, shall order the release from confinement of any accused 13441
who has agreed to enter a pre-trial diversion program and shall 13442
discharge and release any existing bail and release any sureties 13443
on recognizances and shall release the accused on a recognizance 13444
bond conditioned upon the accused's compliance with the terms of 13445
the diversion program. The prosecuting attorney shall notify every 13446
victim of the crime and the arresting officers of the prosecuting 13447
attorney's intent to permit the accused to enter a pre-trial 13448
diversion program. The victim of the crime and the arresting 13449
officers shall have the opportunity to file written objections 13450
with the prosecuting attorney prior to the commencement of the 13451
pre-trial diversion program. 13452

(D) If the accused satisfactorily completes the diversion 13453
program, the prosecuting attorney shall recommend to the trial 13454
court that the charges against the accused be dismissed, and the 13455
court, upon the recommendation of the prosecuting attorney, shall 13456
dismiss the charges. If the accused chooses not to enter the 13457
prosecuting attorney's diversion program, or if the accused 13458
violates the conditions of the agreement pursuant to which the 13459
accused has been released, the accused may be brought to trial 13460
upon the charges in the manner provided by law, and the waiver 13461
executed pursuant to division (B)(1) of this section shall be void 13462
on the date the accused is removed from the program for the 13463
violation. 13464

(E) As used in this section: 13465

(1) "Repeat offender" means a person who has a history of 13466
persistent criminal activity and whose character and condition 13467
reveal a substantial risk that the person will commit another 13468

offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:

(a) Having been convicted of one or more offenses of violence and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense of violence;

(b) Having been convicted of one or more sexually oriented offenses as defined in section 2950.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent sexually oriented offense;

(c) Having been convicted of one or more theft offenses as defined in section 2913.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those theft offenses, the person commits a subsequent theft offense;

(d) Having been convicted of one or more felony drug abuse offenses as defined in section 2925.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those felony drug abuse offenses, the person commits a subsequent felony drug abuse offense;

(e) Having been convicted of two or more felonies and having been imprisoned pursuant to sentence for one or more felonies, the person commits a subsequent offense;

(f) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

(2) "Dangerous offender" means a person who has committed an offense, whose history, character, and condition reveal a substantial risk that the person will be a danger to others, and whose conduct has been characterized by a pattern of repetitive,

compulsive, or aggressive behavior with heedless indifference to 13500
the consequences. 13501

Sec. 2949.091. (A)(1) The court, in which any person is 13502
convicted of or pleads guilty to any offense other than a traffic 13503
offense that is not a moving violation, shall impose the sum of 13504
~~eleven~~ fifteen dollars as costs in the case in addition to any 13505
other court costs that the court is required by law to impose upon 13506
the offender. All such moneys collected during a month shall be 13507
transmitted on or before the twentieth day of the following month 13508
by the clerk of the court to the treasurer of state and deposited 13509
by the treasurer of state into the general revenue fund. The court 13510
shall not waive the payment of the additional ~~eleven~~ fifteen 13511
dollars court costs, unless the court determines that the offender 13512
is indigent and waives the payment of all court costs imposed upon 13513
the indigent offender. 13514

(2) The juvenile court, in which a child is found to be a 13515
delinquent child or a juvenile traffic offender for an act which, 13516
if committed by an adult, would be an offense other than a traffic 13517
offense that is not a moving violation, shall impose the sum of 13518
~~eleven~~ fifteen dollars as costs in the case in addition to any 13519
other court costs that the court is required or permitted by law 13520
to impose upon the delinquent child or juvenile traffic offender. 13521
All such moneys collected during a month shall be transmitted on 13522
or before the twentieth day of the following month by the clerk of 13523
the court to the treasurer of state and deposited by the treasurer 13524
of state into the general revenue fund. The ~~eleven~~ fifteen dollars 13525
court costs shall be collected in all cases unless the court 13526
determines the juvenile is indigent and waives the payment of all 13527
court costs, or enters an order on its journal stating that it has 13528
determined that the juvenile is indigent, that no other court 13529
costs are to be taxed in the case, and that the payment of the 13530
~~eleven~~ fifteen dollars court costs is waived. 13531

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, the court shall add to the amount of the bail the ~~eleven~~ fifteen dollars required to be paid by division (A)(1) of this section. The ~~eleven~~ fifteen dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the ~~eleven~~ fifteen dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, who shall deposit it into the general revenue fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the ~~eleven~~ fifteen dollars to the person.

(C) No person shall be placed or held in a detention facility for failing to pay the additional ~~eleven~~ fifteen dollars court costs or bail that are required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" and "bail" have the same meanings as in section 2743.70 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42

U.S.C.A. 651, as amended, or the alleged father's personal 13562
representative. 13563

(B) An agreement does not bar an action under this section. 13564

(C) If an action under this section is brought before the 13565
birth of the child and if the action is contested, all 13566
proceedings, except service of process and the taking of 13567
depositions to perpetuate testimony, may be stayed until after the 13568
birth. 13569

(D) A recipient of public assistance or of services under 13570
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 13571
U.S.C.A. 651, as amended, shall cooperate with the child support 13572
enforcement agency of the county in which a child resides to 13573
obtain an administrative determination pursuant to sections 13574
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 13575
determination pursuant to sections 3111.01 to 3111.18 of the 13576
Revised Code, of the existence or nonexistence of a parent and 13577
child relationship between the father and the child. If the 13578
recipient fails to cooperate, the agency may commence an action to 13579
determine the existence or nonexistence of a parent and child 13580
relationship between the father and the child pursuant to sections 13581
3111.01 to 3111.18 of the Revised Code. 13582

(E) As used in this section, "public assistance" means 13583
medical assistance under Chapter 5111. of the Revised Code, 13584
assistance under Chapter 5107. of the Revised Code, ~~or~~ disability 13585
financial assistance under Chapter 5115. of the Revised Code, or 13586
disability medical assistance under Chapter 5115. of the Revised 13587
Code. 13588

Sec. 3111.72. (A) The contract between the department of job 13589
and family services and a local hospital shall require all of the 13590
following: 13591

~~(A)~~(1) That the hospital provide a staff person to meet with 13592
each unmarried mother who gave birth in or en route to the 13593
hospital within twenty-four hours of the birth or before the 13594
mother is released from the hospital; 13595

~~(B)~~(2) That the staff person attempt to meet with the father 13596
of the unmarried mother's child if possible; 13597

~~(C)~~(3) That the staff person explain to the unmarried mother 13598
and the father, if he is present, the benefit to the child of 13599
establishing a parent and child relationship between the father 13600
and the child and the various proper procedures for establishing a 13601
parent and child relationship; 13602

~~(D)~~(4) That the staff person present to the unmarried mother 13603
and, if possible, the father, the pamphlet or statement regarding 13604
the rights and responsibilities of a natural parent that is 13605
prepared and provided by the department of job and family services 13606
pursuant to section 3111.32 of the Revised Code; 13607

~~(E)~~(5) That the staff person provide the mother and, if 13608
possible, the father, all forms and statements necessary to 13609
voluntarily establish a parent and child relationship, including, 13610
but not limited to, the acknowledgment of paternity affidavit 13611
prepared by the department of job and family services pursuant to 13612
section 3111.31 of the Revised Code; 13613

~~(F)~~(6) That the staff person, at the request of both the 13614
mother and father, help the mother and father complete any form or 13615
statement necessary to establish a parent and child relationship; 13616

~~(G)~~(7) That the hospital provide a notary public to notarize 13617
an acknowledgment of paternity affidavit signed by the mother and 13618
father; 13619

~~(H)~~(8) That the staff person present to an unmarried mother 13620
who is not participating in the Ohio works first program 13621

established under Chapter 5107. or receiving medical assistance 13622
under Chapter 5111. of the Revised Code an application for Title 13623
IV-D services; 13624

~~(I)~~(9) That the staff person forward any completed 13625
acknowledgment of paternity, no later than ten days after it is 13626
completed, to the office of child support in the department of job 13627
and family services; 13628

~~(J)~~(10) That the department of job and family services pay 13629
the hospital twenty dollars for every correctly signed and 13630
notarized acknowledgment of paternity affidavit from the hospital; 13631

(11) That, if an acknowledgment of paternity application is 13632
not completed and signed by the mother and father, at the request 13633
of either the mother or father and on completion by the mother or 13634
father of an application for services under Title IV-D of the 13635
"Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as 13636
amended, including paternity determination, the hospital staff 13637
immediately collect genetic samples from the mother, father, and 13638
child at no cost to either parent; 13639

(12) That the department pay the hospital thirty dollars for 13640
each sample collected pursuant to division (A)(11) of this 13641
section; 13642

(13) That the department pay the cost of genetic tests of 13643
samples collected pursuant to division (A)(11) of this section. 13644

(B) The director of job and family services shall adopt rules 13645
under Chapter 119. of the Revised Code to implement this section. 13646

Sec. 3119.01. (A) As used in the Revised Code, "child support 13647
enforcement agency" means a child support enforcement agency 13648
designated under former section 2301.35 of the Revised Code prior 13649
to October 1, 1997, or a private or government entity designated 13650
as a child support enforcement agency under section 307.981 of the 13651

Revised Code.	13652
(B) As used in this chapter and Chapters 3121., 3123., and 3125. of the Revised Code:	13653
	13654
(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.	13655
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(2) "Child support order" means either a court child support order or an administrative child support order.	13662
	13663
(3) "Obligee" means the person who is entitled to receive the support payments under a support order.	13664
	13665
(4) "Obligor" means the person who is required to pay support under a support order.	13666
	13667
(5) "Support order" means either an administrative child support order or a court support order.	13668
	13669
(C) As used in this chapter:	13670
(1) "Combined gross income" means the combined gross income of both parents.	13671
	13672
(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.	13673
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	13679
(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse	13680
	13681

issued pursuant to Chapter 3115. of the Revised Code, section 13682
3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) 13683
of former section 3113.21 of the Revised Code. 13684

(4) "Extraordinary medical expenses" means any uninsured 13685
medical expenses incurred for a child during a calendar year that 13686
exceed one hundred dollars. 13687

(5) "Income" means either of the following: 13688

(a) For a parent who is employed to full capacity, the gross 13689
income of the parent; 13690

(b) For a parent who is unemployed or underemployed, the sum 13691
of the gross income of the parent and any potential income of the 13692
parent. 13693

(6) "Insurer" means any person authorized under Title XXXIX 13694
of the Revised Code to engage in the business of insurance in this 13695
state, any health insuring corporation, and any legal entity that 13696
is self-insured and provides benefits to its employees or members. 13697

(7) "Gross income" means, except as excluded in division 13698
(C)(7) of this section, the total of all earned and unearned 13699
income from all sources during a calendar year, whether or not the 13700
income is taxable, and includes income from salaries, wages, 13701
overtime pay, and bonuses to the extent described in division (D) 13702
of section 3119.05 of the Revised Code; commissions; royalties; 13703
tips; rents; dividends; severance pay; pensions; interest; trust 13704
income; annuities; social security benefits, including retirement, 13705
disability, and survivor benefits that are not means-tested; 13706
workers' compensation benefits; unemployment insurance benefits; 13707
disability insurance benefits; benefits that are not means-tested 13708
and that are received by and in the possession of the veteran who 13709
is the beneficiary for any service-connected disability under a 13710
program or law administered by the United States department of 13711
veterans' affairs or veterans' administration; spousal support 13712

actually received; and all other sources of income. "Gross income" 13713
includes income of members of any branch of the United States 13714
armed services or national guard, including, amounts representing 13715
base pay, basic allowance for quarters, basic allowance for 13716
subsistence, supplemental subsistence allowance, cost of living 13717
adjustment, specialty pay, variable housing allowance, and pay for 13718
training or other types of required drills; self-generated income; 13719
and potential cash flow from any source. 13720

"Gross income" does not include any of the following: 13721

(a) Benefits received from means-tested government 13722
administered programs, including Ohio works first; prevention, 13723
retention, and contingency; means-tested veterans' benefits; 13724
supplemental security income; food stamps; disability financial 13725
assistance; or other assistance for which eligibility is 13726
determined on the basis of income or assets; 13727

(b) Benefits for any service-connected disability under a 13728
program or law administered by the United States department of 13729
veterans' affairs or veterans' administration that are not 13730
means-tested, that have not been distributed to the veteran who is 13731
the beneficiary of the benefits, and that are in the possession of 13732
the United States department of veterans' affairs or veterans' 13733
administration; 13734

(c) Child support received for children who were not born or 13735
adopted during the marriage at issue; 13736

(d) Amounts paid for mandatory deductions from wages such as 13737
union dues but not taxes, social security, or retirement in lieu 13738
of social security; 13739

(e) Nonrecurring or unsustainable income or cash flow items; 13740

(f) Adoption assistance and foster care maintenance payments 13741
made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 13742
501, 42 U.S.C.A. 670 (1980), as amended. 13743

(8) "Nonrecurring or unsustainable income or cash flow item" 13744
means an income or cash flow item the parent receives in any year 13745
or for any number of years not to exceed three years that the 13746
parent does not expect to continue to receive on a regular basis. 13747
"Nonrecurring or unsustainable income or cash flow item" does not 13748
include a lottery prize award that is not paid in a lump sum or 13749
any other item of income or cash flow that the parent receives or 13750
expects to receive for each year for a period of more than three 13751
years or that the parent receives and invests or otherwise uses to 13752
produce income or cash flow for a period of more than three years. 13753

(9)(a) "Ordinary and necessary expenses incurred in 13754
generating gross receipts" means actual cash items expended by the 13755
parent or the parent's business and includes depreciation expenses 13756
of business equipment as shown on the books of a business entity. 13757

(b) Except as specifically included in "ordinary and 13758
necessary expenses incurred in generating gross receipts" by 13759
division (C)(9)(a) of this section, "ordinary and necessary 13760
expenses incurred in generating gross receipts" does not include 13761
depreciation expenses and other noncash items that are allowed as 13762
deductions on any federal tax return of the parent or the parent's 13763
business. 13764

(10) "Personal earnings" means compensation paid or payable 13765
for personal services, however denominated, and includes wages, 13766
salary, commissions, bonuses, draws against commissions, profit 13767
sharing, vacation pay, or any other compensation. 13768

(11) "Potential income" means both of the following for a 13769
parent who the court pursuant to a court support order, or a child 13770
support enforcement agency pursuant to an administrative child 13771
support order, determines is voluntarily unemployed or voluntarily 13772
underemployed: 13773

(a) Imputed income that the court or agency determines the 13774

parent would have earned if fully employed as determined from the	13775
following criteria:	13776
(i) The parent's prior employment experience;	13777
(ii) The parent's education;	13778
(iii) The parent's physical and mental disabilities, if any;	13779
(iv) The availability of employment in the geographic area in	13780
which the parent resides;	13781
(v) The prevailing wage and salary levels in the geographic	13782
area in which the parent resides;	13783
(vi) The parent's special skills and training;	13784
(vii) Whether there is evidence that the parent has the	13785
ability to earn the imputed income;	13786
(viii) The age and special needs of the child for whom child	13787
support is being calculated under this section;	13788
(ix) The parent's increased earning capacity because of	13789
experience;	13790
(x) Any other relevant factor.	13791
(b) Imputed income from any nonincome-producing assets of a	13792
parent, as determined from the local passbook savings rate or	13793
another appropriate rate as determined by the court or agency, not	13794
to exceed the rate of interest specified in division (A) of	13795
section 1343.03 of the Revised Code, if the income is significant.	13796
(12) "Schedule" means the basic child support schedule set	13797
forth in section 3119.021 of the Revised Code.	13798
(13) "Self-generated income" means gross receipts received by	13799
a parent from self-employment, proprietorship of a business, joint	13800
ownership of a partnership or closely held corporation, and rents	13801
minus ordinary and necessary expenses incurred by the parent in	13802
generating the gross receipts. "Self-generated income" includes	13803

expense reimbursements or in-kind payments received by a parent 13804
from self-employment, the operation of a business, or rents, 13805
including company cars, free housing, reimbursed meals, and other 13806
benefits, if the reimbursements are significant and reduce 13807
personal living expenses. 13808

(14) "Split parental rights and responsibilities" means a 13809
situation in which there is more than one child who is the subject 13810
of an allocation of parental rights and responsibilities and each 13811
parent is the residential parent and legal custodian of at least 13812
one of those children. 13813

(15) "Worksheet" means the applicable worksheet that is used 13814
to calculate a parent's child support obligation as set forth in 13815
sections 3119.022 and 3119.023 of the Revised Code. 13816

Sec. 3123.952. A child support enforcement agency may submit 13817
the name of a delinquent obligor to the office of child support 13818
for inclusion on a poster only if all of the following apply: 13819

(A) The obligor is subject to a support order and there has 13820
been an attempt to enforce the order through a public notice, a 13821
wage withholding order, a lien on property, a financial 13822
institution deduction order, or other court-ordered procedures. 13823

(B) The department of job and family services reviewed the 13824
obligor's records and confirms the child support enforcement 13825
agency's finding that the obligor's name and photograph may be 13826
submitted to be displayed on a poster. 13827

(C) The agency does not know or is unable to verify the 13828
obligor's whereabouts. 13829

(D) The obligor is not a participant in Ohio works first or 13830
the prevention, retention, and contingency program or a recipient 13831
of disability financial assistance, supplemental security income, 13832
or food stamps. 13833

(E) The child support enforcement agency does not have 13834
evidence that the obligor has filed for protection under the 13835
federal Bankruptcy Code, 11 U.S.C.A. 101, as amended. 13836

(F) The obligee gave written authorization to the agency to 13837
display the obligor on a poster. 13838

(G) A legal representative of the agency and a child support 13839
enforcement administrator reviewed the case. 13840

(H) The agency is able to submit to the department a 13841
description and photograph of the obligor, a statement of the 13842
possible locations of the obligor, and any other information 13843
required by the department. 13844

Sec. 3301.20. (A) Not later than July 1, 2004, the department 13845
of education shall establish the Ohio regional education delivery 13846
system to provide services and technical assistance to school 13847
districts. The system shall provide services that were formerly 13848
provided by regional professional development centers, special 13849
education regional resource centers, area media centers, school 13850
improvement facilitators, Ohio SchoolNet regional faculty, and 13851
other regional service providers. 13852

(B) The number of regional service centers established under 13853
the Ohio regional education delivery system shall not exceed 13854
nineteen. Such service centers shall be distributed geographically 13855
throughout the state. 13856

(C) The department, in consultation with stakeholders, shall 13857
develop an accountability system for the Ohio regional education 13858
delivery system. The accountability system shall include minimum 13859
standards for operation and the provision of services. It shall 13860
also include benchmarks against performance measures based on each 13861
of the following: 13862

(1) Student achievement; 13863

<u>(2) The effectiveness and efficiency of service delivery;</u>	13864
<u>(3) The quality of implementation of state initiatives;</u>	13865
<u>(4) Satisfaction expressed by school districts and other</u>	13866
<u>entities that use the Ohio regional education delivery system with</u>	13867
<u>the quality of the system.</u>	13868
<u>(D) The department, in consultation with stakeholders, shall</u>	13869
<u>develop accountability systems for educational service centers,</u>	13870
<u>data acquisition sites established under section 3301.075 of the</u>	13871
<u>Revised Code, and educational technology centers.</u>	13872
<u>Sec. 3301.31. As used in this section and sections 3301.32 to</u>	13873
<u>3301.37 of the Revised Code:</u>	13874
<u>(A) "Eligible individual" means an individual eligible for</u>	13875
<u>Title IV-A services.</u>	13876
<u>(B) "Head start agency" means any of the following:</u>	13877
<u>(1) An entity in this state that has been approved to be an</u>	13878
<u>agency for purposes of the "Head Start Act," 95 Stat. 489 (1981),</u>	13879
<u>42 U.S.C. 9831, as amended;</u>	13880
<u>(2) A Title IV-A head start agency;</u>	13881
<u>(3) A Title IV-A head start plus agency.</u>	13882
<u>(C) "Head start program" has the same meaning as in section</u>	13883
<u>5104.01 of the Revised Code.</u>	13884
<u>(D) "Title IV-A services" means benefits and services that</u>	13885
<u>are allowable under Title IV-A of the "Social Security Act," as</u>	13886
<u>specified in 42 U.S.C.A 604(a), except that they shall not be</u>	13887
<u>benefits and services included in the term "assistance" as defined</u>	13888
<u>in 45 C.F.R. 260.31(a) and shall be benefits and services that are</u>	13889
<u>excluded from the definition of the term "assistance" under 45</u>	13890
<u>C.F.R. 260.31(b).</u>	13891

(E) "Title IV-A head start agency" means an agency receiving funds to operate a head start program as prescribed in section 3301.34 of the Revised Code. 13892
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(F) "Title IV-A head start plus agency" means an agency receiving funds to operate a head start program as prescribed in section 3301.35 of the Revised Code. 13895
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Sec. 3301.33. (A) There is hereby established the Title IV-A head start program to provide head start program services to eligible individuals. 13898
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(B) There is hereby established the Title IV-A head start plus program to provide year-long head start program services and child care services to eligible individuals. 13901
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(C) The programs established under divisions (A) and (B) of this section shall be administered by the department of education in accordance with an interagency agreement entered into with the department of job and family services under section 5101.801 of the Revised Code. The programs shall provide Title IV-A services to eligible individuals who meet eligibility requirements established in rules and administrative orders adopted by the department of job and family services under Chapter 5104. of the Revised Code. The department of job and family services and the department of education jointly shall adopt policies and procedures establishing program requirements for eligibility, services, program administration, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended. 13904
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The department of education shall be responsible for approving all Title IV-A head start agencies and Title IV-A head start plus agencies for provision of services under the programs 13919
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established under this section. An agency that is not approved by 13922
the department shall not be reimbursed for the cost of providing 13923
services under the programs. 13924

Sec. 3301.34. In administering the Title IV-A head start 13925
program established under division (A) of section 3301.33 of the 13926
Revised Code, the department of education shall enter into a 13927
contract with each Title IV-A head start agency establishing the 13928
terms and conditions applicable to the provision of Title IV-A 13929
services for eligible individuals. The contracts shall specify the 13930
respective duties of the Title IV-A head start agencies and the 13931
department of education, reporting requirements, eligibility 13932
requirements, procedures for obtaining verification of eligibility 13933
for Title IV-A services from a county department of job and family 13934
services, reimbursement methodology, audit requirements, and other 13935
provisions determined necessary. The department of education shall 13936
reimburse the Title IV-A head start agencies for Title IV-A 13937
services provided to eligible individuals in accordance with the 13938
terms of the contract, policies and procedures adopted by the 13939
department of education and the department of job and family 13940
services under section 3301.33 of the Revised Code, and the 13941
interagency agreement entered into by the departments. 13942

The department of education shall ensure that all 13943
reimbursements paid to a Title IV-A head start agency are only for 13944
Title IV-A services. 13945

The department of education shall ensure that all 13946
reimbursements paid to a Title IV-A head start agency are for only 13947
those individuals for whom the Title IV-A head start agency has 13948
obtained verification of eligibility for Title IV-A services from 13949
the appropriate county department of job and family services, as 13950
provided for in section 3301.36 of the Revised Code. 13951

Sec. 3301.35. (A) In administering the Title IV-A head start plus program established under division (B) of section 3301.33, the department of education shall enter into a contract with each county department of job and family services to administer the program within its respective county. The county departments shall verify the eligibility for Title IV-A services of individuals and reimburse Title IV-A head start plus agencies for Title IV-A services provided to eligible individuals under the program. The department of education shall reimburse the county departments for allowable payments made to Title IV-A head start plus agencies.

The contract entered into by the department of education and each county department shall specify the duties of the county department and the department of education, reporting requirements, reimbursement methodology, audit requirements, and other provisions determined necessary. The department of education shall reimburse each county department for reimbursements the county department pays to Title IV-A head start plus agencies for Title IV-A services in accordance with the terms of the contract and with policies and procedures adopted by the department of education and the state department of job and family services under section 3301.33 of the Revised Code.

Each county department shall deposit all reimbursements received under this section into the county public assistance fund.

(B) Each county department shall administer the program within its respective county in accordance with requirements established by the state department of job and family services under section 5101.801 of the Revised Code. The county department shall ensure that all reimbursements paid to a Title IV-A head start plus agency are for only Title IV-A services.

The administration of the Title IV-A head start plus program

<u>by the county department shall include all of the following:</u>	13983
<u>(1) Determining eligibility of individuals and establishing</u>	13984
<u>co-payment requirements in accordance with rules adopted by the</u>	13985
<u>state department of job and family services;</u>	13986
<u>(2) Ensuring that any reimbursements paid by the county</u>	13987
<u>department to a Title IV-A head start plus agency comply with</u>	13988
<u>requirements of Title IV-A of the "Social Security Act," 110 Stat.</u>	13989
<u>2113, 42 U.S.C. 601 (1996), as amended, including eligibility of</u>	13990
<u>individuals, reporting requirements, allowable benefits and</u>	13991
<u>services, use of funds, and audit requirements, as specified in</u>	13992
<u>state and federal laws and regulations, United States office of</u>	13993
<u>management and budget circulars, and the Title IV-A state plan;</u>	13994
<u>(3) Monitoring each Title IV-A head start plus agency that</u>	13995
<u>receives funds from the county department. The county department</u>	13996
<u>is responsible for assuring that all Title IV-A funds are used</u>	13997
<u>solely for purposes allowable under federal regulations, section</u>	13998
<u>5101.801 of the Revised Code, and the Title IV-A state plan and</u>	13999
<u>shall take prompt action to recover funds that are not expended</u>	14000
<u>accordingly.</u>	14001
<u>(C) Each county department shall enter into contracts with</u>	14002
<u>Title IV-A head start plus agencies to provide Title IV-A services</u>	14003
<u>to eligible individuals who meet eligibility requirements</u>	14004
<u>established in rules adopted by the department of job and family</u>	14005
<u>services.</u>	14006
<u>The county department shall enter into contracts with only</u>	14007
<u>those agencies that have been approved by the department of</u>	14008
<u>education as a Title IV-A head start plus agency and that have</u>	14009
<u>been licensed in accordance with section 3301.37 of the Revised</u>	14010
<u>Code. Each contract entered into by a county department under this</u>	14011
<u>division shall specify all of the following:</u>	14012
<u>(1) Requirements for financial management and accountability</u>	14013

<u>for the funds, including the prompt repayment of funds that were</u>	14014
<u>not spent in accordance with these requirements;</u>	14015
<u>(2) Requirements applicable to the allowable use of and</u>	14016
<u>accountability for Title IV-A funds;</u>	14017
<u>(3) Requirements for access, inspection, and examination of</u>	14018
<u>the agency's financial and program records by the county</u>	14019
<u>department, the state department of job and family services, the</u>	14020
<u>department of education, the auditor of state, and any other state</u>	14021
<u>or federal agency with authority to inspect and examine such</u>	14022
<u>records;</u>	14023
<u>(4) Audit requirements applicable to funds received under the</u>	14024
<u>contract;</u>	14025
<u>(5) Requirements for the prompt repayment to the county</u>	14026
<u>department of any funds that are the subject of any federal or</u>	14027
<u>state adverse audit findings;</u>	14028
<u>(6) Procedures for adjustments and reconciliation of</u>	14029
<u>overpayments, underpayments, advanced funds, or other accounting</u>	14030
<u>procedures required by the county department, state department of</u>	14031
<u>job and family services, or department of education;</u>	14032
<u>(7) Reimbursement rates;</u>	14033
<u>(8) Billing dates, payment dates, and other reimbursement</u>	14034
<u>procedures established by the county department;</u>	14035
<u>(9) Reporting requirements by and for the county department,</u>	14036
<u>the state department of job and family services, and the</u>	14037
<u>department of education;</u>	14038
<u>(10) Provisions for the county department to withhold</u>	14039
<u>reimbursement, or to suspend, modify, or terminate the contract if</u>	14040
<u>the department of education suspends or removes the agency from</u>	14041
<u>the list of approved Title IV-A head start plus agencies or if the</u>	14042
<u>state department of job and family services denies or revokes a</u>	14043

license for the agency. 14044

Sec. 3301.36. At the request of a Title IV-A head start 14045
agency or Title IV-A head start plus agency, each county 14046
department of job and family services shall provide verification 14047
of eligibility for Title IV-A services for individuals seeking 14048
Title IV-A services from the agency. 14049

Sec. 3301.37. (A) Each entity operating a head start program 14050
shall be licensed by the department of job and family services in 14051
accordance with Chapter 5104. of the Revised Code. 14052

(B) Notwithstanding division (A) of this section, any current 14053
license issued under section 3301.58 of the Revised Code by the 14054
department of education to an entity operating a head start 14055
program prior to the effective date of this section is hereby 14056
deemed to be a license issued by the department of job and family 14057
services under Chapter 5104. of the Revised Code. The expiration 14058
date of the license shall be the earlier of the expiration date 14059
specified in the license as issued under section 3301.58 of the 14060
Revised Code or July 1, 2005. In order to continue operation of 14061
its head start program after that expiration date, the entity 14062
shall obtain a license as prescribed in division (A) of this 14063
section. 14064

Sec. ~~3301.33~~ 3301.40. (A) As used in this section, "adult 14065
education" has the meaning as established under the "adult 14066
education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as 14067
amended. 14068

(B) Beginning July 1, 1996, the department of education may 14069
distribute state funds to organizations that qualify for federal 14070
funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 14071
1201 to 1213d, as amended. The funds shall be used by qualifying 14072
organizations to provide adult education services. State funds 14073

distributed pursuant to this section shall be distributed in 14074
accordance with the rules adopted by the state board of education 14075
pursuant to this section. 14076

Each organization that receives funds under this section 14077
shall file program performance reports with the department. The 14078
reports shall be filed at times required by state board of 14079
education rule and contain assessments of individual students as 14080
they enter, progress through, and exit the adult education 14081
program; records regarding individual student program 14082
participation time; reports of individual student retention rates; 14083
and any other information required by rule. 14084

(C) The state board of education shall adopt rules for the 14085
distribution of funds under this section. The rules shall include 14086
the following: 14087

(1) Requirements for program performance reports. 14088

(2) Indicators of adult education program quality, including 14089
indicators of learner achievement, program environment, program 14090
planning, curriculum and instruction, staff development, support 14091
services, and recruitment and retention. 14092

(3) A formula for the distribution of funds under this 14093
section. The formula shall include as a factor an organization's 14094
quantifiable success in meeting the indicators of program quality 14095
established pursuant to division (C)(2) of this section. 14096

(4) Standards and procedures for reducing or discontinuing 14097
funding to organizations that fail to meet the requirements of 14098
this section. 14099

(5) Any other requirements or standards considered 14100
appropriate by the board. 14101

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the 14102
Revised Code: 14103

(A) "Preschool program" means either of the following:	14104
(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.	14105 14106 14107 14108
(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.	14109 14110
(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.	14111 14112
(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.	14113 14114 14115
(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of an eligible nonpublic school.	14116 14117 14118
(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.	14119 14120 14121
(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.	14122 14123 14124
(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 children or school children.	14125 14126 14127 14128
(H) "Eligible nonpublic school" means a nonpublic school chartered as described in division (B)(8) of section 5104.02 of the Revised Code or chartered by the state board of education for any combination of grades one through twelve, regardless of whether it also offers kindergarten.	14129 14130 14131 14132 14133

(I) "County MR/DD board" means a county board of mental 14134
retardation and developmental disabilities. 14135

(J) "School child program" means a child day-care program for 14136
only school children that is operated by a school district board 14137
of education, county MR/DD board, or eligible nonpublic school. 14138

(K) "School child" and "child day-care" have the same 14139
meanings as in section 5104.01 of the Revised Code. 14140

(L) "School child program staff member" means an employee 14141
whose primary responsibility is the care, teaching, or supervision 14142
of children in a school child program. 14143

~~(M) "Head start" means a program operated in accordance with 14144
subchapter II of the "Community Economic Development Act," 95 14145
Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto. 14146~~

Sec. 3301.53. (A) Not later than July 1, 1988, the state 14147
board of education, in consultation with the director of job and 14148
family services, shall formulate and prescribe by rule adopted 14149
under Chapter 119. of the Revised Code minimum standards to be 14150
applied to preschool programs operated by school district boards 14151
of education, county MR/DD boards, or eligible nonpublic schools, 14152
~~head start grantees, and head start delegate agencies.~~ The rules 14153
shall include the following: 14154

(1) Standards ensuring that the preschool program is located 14155
in a safe and convenient facility that accommodates the enrollment 14156
of the program, is of the quality to support the growth and 14157
development of the children according to the program objectives, 14158
and meets the requirements of section 3301.55 of the Revised Code; 14159

(2) Standards ensuring that supervision, discipline, and 14160
programs will be administered according to established objectives 14161
and procedures; 14162

(3) Standards ensuring that preschool staff members and 14163

nonteaching employees are recruited, employed, assigned, 14164
evaluated, and provided inservice education without discrimination 14165
on the basis of age, color, national origin, race, or sex; and 14166
that preschool staff members and nonteaching employees are 14167
assigned responsibilities in accordance with written position 14168
descriptions commensurate with their training and experience; 14169

(4) A requirement that boards of education intending to 14170
establish a preschool program on or after March 17, 1989, 14171
demonstrate a need for a preschool program that is not being met 14172
by any existing program providing child day-care, prior to 14173
establishing the program; 14174

(5) Requirements that children participating in preschool 14175
programs have been immunized to the extent considered appropriate 14176
by the state board to prevent the spread of communicable disease; 14177

(6) Requirements that the parents of preschool children 14178
complete the emergency medical authorization form specified in 14179
section 3313.712 of the Revised Code. 14180

(B) The state board of education in consultation with the 14181
director of job and family services shall ensure that the rules 14182
adopted by the state board under sections 3301.52 to 3301.58 of 14183
the Revised Code are consistent with and meet or exceed the 14184
requirements of Chapter 5104. of the Revised Code with regard to 14185
child day-care centers. The state board and the director of job 14186
and family services shall review all such rules at least once 14187
every five years. 14188

(C) On or before January 1, 1992, the state board of 14189
education, in consultation with the director of job and family 14190
services, shall adopt rules for school child programs that are 14191
consistent with and meet or exceed the requirements of the rules 14192
adopted for school child day-care centers under Chapter 5104. of 14193
the Revised Code. 14194

Sec. 3301.54. (A)(1) Each preschool program shall be directed 14195
and supervised by a director, a head teacher, an elementary 14196
principal, or a site administrator who is on site and responsible 14197
for supervision of the program. Except as otherwise provided in 14198
division (A)(2), (3), or (4) of this section, this person shall 14199
hold a valid educator license designated as appropriate for 14200
teaching or being an administrator in a preschool setting issued 14201
pursuant to section 3319.22 of the Revised Code and have completed 14202
at least four courses in child development or early childhood 14203
education from an accredited college, university, or technical 14204
college. 14205

(2) If the person was employed prior to July 1, 1988, by a 14206
school district board of education or an eligible nonpublic school 14207
to direct a preschool program, the person shall be considered to 14208
meet the requirements of this section if the person holds a valid 14209
kindergarten-primary certificate described under former division 14210
(A) of section 3319.22 of the Revised Code as it existed on 14211
January 1, 1996. 14212

(3) If the person is employed to direct a preschool program 14213
operated by an eligible, nontax-supported, nonpublic school, the 14214
person shall be considered to meet the requirements of this 14215
section if the person holds a valid teaching certificate issued in 14216
accordance with section 3301.071 of the Revised Code. 14217

~~(4) If the person is a site administrator for a head start 14218
grantee or head start delegate agency, the person shall be 14219
considered to meet the requirements of this section if the person 14220
provides evidence that the person has attained at least a high 14221
school diploma or certification of high school equivalency issued 14222
by the state board of education or a comparable agency of another 14223
state, and that the person meets at least one of the following 14224
requirements: 14225~~

~~(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 preschool program under the continuous supervision of an experienced preschool staff member and receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school.

A preschool staff member shall annually complete fifteen

hours of inservice training in child development or early 14257
childhood education, child abuse recognition and prevention, and 14258
first aid, and in the prevention, recognition, and management of 14259
communicable diseases, until a total of forty-five hours has been 14260
completed, unless the staff member holds an associate or higher 14261
degree in child development or early childhood education from an 14262
accredited college, university, or technical college, or any type 14263
of educator license designated as appropriate for teaching in an 14264
associate teaching position in a preschool setting issued by the 14265
state board of education pursuant to section 3319.22 of the 14266
Revised Code. 14267

Sec. 3301.55. (A) A school district, county MR/DD board, or 14268
eligible nonpublic school, ~~head start grantee, or head start~~ 14269
~~delegate agency~~ operating a preschool program shall house the 14270
program in buildings that meet the following requirements: 14271

(1) The building is operated by the district, county MR/DD 14272
board, or eligible nonpublic school, ~~head start grantee, or head~~ 14273
~~start delegate agency~~ and has been approved by the division of 14274
industrial compliance in the department of commerce or a certified 14275
municipal, township, or county building department for the purpose 14276
of operating a program for preschool children. Any such structure 14277
shall be constructed, equipped, repaired, altered, and maintained 14278
in accordance with applicable provisions of Chapters 3781. and 14279
3791. and with rules adopted by the board of building standards 14280
under Chapter 3781. of the Revised Code for the safety and 14281
sanitation of structures erected for this purpose. 14282

(2) The building is in compliance with fire and safety laws 14283
and regulations as evidenced by reports of annual school fire and 14284
safety inspections as conducted by appropriate local authorities. 14285

(3) The school is in compliance with rules established by the 14286
state board of education regarding school food services. 14287

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this section and section 3301.53 of the Revised Code and the time period that will be allowed the district, county MR/DD board, or school, ~~grantee, or agency~~ to meet the requirements.

Sec. 3301.57. (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county MR/DD boards, and eligible nonpublic schools, ~~head start grantees, and head~~

~~start delegate agencies~~ operating preschool programs or school 14319
child programs, and inservice training to preschool staff members, 14320
school child program staff members, and nonteaching employees. 14321

(B) The department and the school district board of 14322
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 14323
~~start grantee, or head start delegate agency~~ shall jointly monitor 14324
each preschool program and each school child program. 14325

If the program receives any grant or other funding from the 14326
state or federal government, the department annually shall monitor 14327
all reports on attendance, financial support, and expenditures 14328
according to provisions for use of the funds. 14329

(C) ~~The department of job and family services and the~~ 14330
~~department of education shall enter into a contract pursuant to~~ 14331
~~which the department of education inspects preschool programs and~~ 14332
~~school child programs in accordance with sections 3301.52 to~~ 14333
~~3301.59 of the Revised Code, the rules adopted under those~~ 14334
~~sections, and any applicable procedures in Chapter 5104. of the~~ 14335
~~Revised Code and investigates any complaints filed pursuant to~~ 14336
~~those sections or rules. The contract shall require the department~~ 14337
~~of job and family services to pay the department of education for~~ 14338
~~conducting the inspections and investigations an amount equal to~~ 14339
~~the amount that the department of job and family services would~~ 14340
~~expend conducting the same number of inspections and~~ 14341
~~investigations with its employees under Chapter 5104. of the~~ 14342
~~Revised Code.~~ 14343

~~(D)~~ The department of education, at least twice during every 14344
twelve-month period of operation of a preschool program or a 14345
licensed school child program, shall inspect the program and 14346
provide a written inspection report to the superintendent of the 14347
school district, county MR/DD board, eligible nonpublic school, 14348
head start grantee, or head start delegate agency. At least one 14349
inspection shall be unannounced, and all inspections may be 14350

unannounced. No person shall interfere with any inspection 14351
conducted pursuant to this division or to the rules adopted 14352
pursuant to sections 3301.52 to 3301.59 of the Revised Code. 14353

Upon receipt of any complaint that a preschool program or a 14354
licensed school child program is out of compliance with the 14355
requirements in sections 3301.52 to 3301.59 of the Revised Code or 14356
the rules adopted under those sections, the department shall 14357
investigate and may inspect the program. 14358

~~(E)~~(D) If a preschool program or a licensed school child 14359
program is determined to be out of compliance with the 14360
requirements of sections 3301.52 to 3301.59 of the Revised Code or 14361
the rules adopted under those sections, the department of 14362
education shall notify the appropriate superintendent, county 14363
MR/DD board, eligible nonpublic school, head start grantee, or 14364
head start delegate agency in writing regarding the nature of the 14365
violation, what must be done to correct the violation, and by what 14366
date the correction must be made. If the correction is not made by 14367
the date established by the department, it may commence action 14368
under Chapter 119. of the Revised Code to close the program or to 14369
revoke the license of the program. If a program does not comply 14370
with an order to cease operation issued in accordance with Chapter 14371
119. of the Revised Code, the department shall notify the attorney 14372
general, the prosecuting attorney of the county in which the 14373
program is located, or the city attorney, village solicitor, or 14374
other chief legal officer of the municipal corporation in which 14375
the program is located that the program is operating in violation 14376
of sections 3301.52 to 3301.59 of the Revised Code or the rules 14377
adopted under those sections and in violation of an order to cease 14378
operation issued in accordance with Chapter 119. of the Revised 14379
Code. Upon receipt of the notification, the attorney general, 14380
prosecuting attorney, city attorney, village solicitor, or other 14381
chief legal officer shall file a complaint in the court of common 14382

pleas of the county in which the program is located requesting the 14383
court to issue an order enjoining the program from operating. The 14384
court shall grant the requested injunctive relief upon a showing 14385
that the program named in the complaint is operating in violation 14386
of sections 3301.52 to 3301.59 of the Revised Code or the rules 14387
adopted under those sections and in violation of an order to cease 14388
operation issued in accordance with Chapter 119. of the Revised 14389
Code. 14390

~~(F)~~(E) The department of education shall prepare an annual 14391
report on inspections conducted under this section. The report 14392
shall include the number of inspections conducted, the number and 14393
types of violations found, and the steps taken to address the 14394
violations. The department shall file the report with the 14395
governor, the president and minority leader of the senate, and the 14396
speaker and minority leader of the house of representatives on or 14397
before the first day of January of each year, beginning in 1999. 14398

Sec. 3301.58. (A) The department of education is responsible 14399
for the licensing of preschool programs and school child programs 14400
and for the enforcement of sections 3301.52 to 3301.59 of the 14401
Revised Code and of any rules adopted under those sections. No 14402
school district board of education, county MR/DD board, or 14403
eligible nonpublic school, ~~head start grantee, or head start~~ 14404
~~delegate agency~~ shall operate, establish, manage, conduct, or 14405
maintain a preschool program without a license issued under this 14406
section. A school district board of education, county MR/DD board, 14407
or eligible nonpublic school may obtain a license under this 14408
section for a school child program. The school district board of 14409
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 14410
~~start grantee, or head start delegate agency~~ shall post the 14411
current license for each preschool program and licensed school 14412
child program it operates, establishes, manages, conducts, or 14413
maintains in a conspicuous place in the preschool program or 14414

licensed school child program that is accessible to parents, 14415
custodians, or guardians and employees and staff members of the 14416
program at all times when the program is in operation. 14417

(B) Any school district board of education, county MR/DD 14418
board, or eligible nonpublic school, ~~head start grantee, or head~~ 14419
~~start delegate agency~~ that desires to operate, establish, manage, 14420
conduct, or maintain a preschool program shall apply to the 14421
department of education for a license on a form that the 14422
department shall prescribe by rule. Any school district board of 14423
education, county MR/DD board, or eligible nonpublic school that 14424
desires to obtain a license for a school child program shall apply 14425
to the department for a license on a form that the department 14426
shall prescribe by rule. The department shall provide at no charge 14427
to each applicant for a license under this section a copy of the 14428
requirements under sections 3301.52 to 3301.59 of the Revised Code 14429
and any rules adopted under those sections. The department shall 14430
mail application forms for the renewal of a license at least one 14431
hundred twenty days prior to the date of the expiration of the 14432
license, and the application for renewal of a license shall be 14433
filed with the department at least sixty days before the date of 14434
the expiration of the existing license. The department may 14435
establish application fees by rule adopted under Chapter 119. of 14436
the Revised Code, and all applicants for a license shall pay any 14437
fee established by the department at the time of making an 14438
application for a license. All fees collected pursuant to this 14439
section shall be paid into the state treasury to the credit of the 14440
general revenue fund. 14441

(C) Upon the filing of an application for a license, the 14442
department of education shall investigate and inspect the 14443
preschool program or school child program to determine the license 14444
capacity for each age category of children of the program and to 14445
determine whether the program complies with sections 3301.52 to 14446

3301.59 of the Revised Code and any rules adopted under those 14447
sections. When, after investigation and inspection, the department 14448
of education is satisfied that sections 3301.52 to 3301.59 of the 14449
Revised Code and any rules adopted under those sections are 14450
complied with by the applicant, the department of education shall 14451
issue the program a provisional license as soon as practicable in 14452
the form and manner prescribed by the rules of the department. The 14453
provisional license shall be valid for six months from the date of 14454
issuance unless revoked. 14455

(D) The department of education shall investigate and inspect 14456
a preschool program or school child program that has been issued a 14457
provisional license at least once during operation under the 14458
provisional license. If, after the investigation and inspection, 14459
the department of education determines that the requirements of 14460
sections 3301.52 to 3301.59 of the Revised Code and any rules 14461
adopted under those sections are met by the provisional licensee, 14462
the department of education shall issue a license that is 14463
effective for two years from the date of the issuance of the 14464
provisional license. 14465

(E) Upon the filing of an application for the renewal of a 14466
license by a preschool program or school child program, the 14467
department of education shall investigate and inspect the 14468
preschool program or school child program. If the department of 14469
education determines that the requirements of sections 3301.52 to 14470
3301.59 of the Revised Code and any rules adopted under those 14471
sections are met by the applicant, the department of education 14472
shall renew the license for two years from the date of the 14473
expiration date of the previous license. 14474

(F) The license or provisional license shall state the name 14475
of the school district board of education, county MR/DD board, or 14476
eligible nonpublic school, ~~head start grantee, or head start~~ 14477
~~delegate agency~~ that operates the preschool program or school 14478

child program and the license capacity of the program. The license 14479
shall include any other information required by section 5104.03 of 14480
the Revised Code for the license of a child day-care center. 14481

(G) The department of education may revoke the license of any 14482
preschool program or school child program that is not in 14483
compliance with the requirements of sections 3301.52 to 3301.59 of 14484
the Revised Code and any rules adopted under those sections. 14485

(H) If the department of education revokes a license or 14486
refuses to renew a license to a program, the department shall not 14487
issue a license to the program within two years from the date of 14488
the revocation or refusal. All actions of the department with 14489
respect to licensing preschool programs and school child programs 14490
shall be in accordance with Chapter 119. of the Revised Code. 14491

Sec. 3311.24. (A) Except as provided in division (B) of this 14492
section, if the board of education of a city, exempted village, or 14493
local school district deems it advisable to transfer territory 14494
from such district to an adjoining city, exempted village, or 14495
local school district, or if a petition, signed by seventy-five 14496
per cent of the qualified electors residing within that portion of 14497
a city, exempted village, or local school district proposed to be 14498
transferred voting at the last general election, requests such a 14499
transfer, the board of education of the district in which such 14500
proposal originates shall file such proposal, together with a map 14501
showing the boundaries of the territory proposed to be 14502
transferred, with the state board of education prior to the first 14503
day of April in any even-numbered year. The state board of 14504
education may, if it is advisable, provide for a hearing in any 14505
suitable place in any of the school districts affected by such 14506
proposed transfer of territory. The state board of education or 14507
its representatives shall preside at any such hearing. 14508

A board of education of a city, exempted village, or local 14509

school district that receives a petition of transfer under this 14510
division shall cause the board of elections to check the 14511
sufficiency of signatures on the petition. 14512

Not later than the first day of September the state board of 14513
education shall either approve or disapprove a proposed transfer 14514
of territory filed with it as provided by this section and shall 14515
notify, in writing, the boards of education of the districts 14516
affected by such proposed transfer of territory of its decision. 14517

If the decision of the state board of education is an 14518
approval of the proposed transfer of territory then the board of 14519
education of the district in which the territory is located shall, 14520
within thirty days after receiving the state board of education's 14521
decision, adopt a resolution transferring the territory and shall 14522
forthwith submit a copy of such resolution to the treasurer of the 14523
board of education of the city, exempted village, or local school 14524
district to which the territory is transferred. Such transfer 14525
shall not be complete however, until: 14526

(1) A resolution accepting the transfer has been passed by a 14527
majority vote of the full membership of the board of education of 14528
the city, exempted village, or local school district to which the 14529
territory is transferred; 14530

(2) An equitable division of the funds and indebtedness 14531
between the districts involved has been made by the board of 14532
education making the transfer; 14533

(3) A map showing the boundaries of the territory transferred 14534
has been filed, by the board of education accepting the transfer, 14535
with the county auditor of each county affected by the transfer. 14536

When such transfer is complete the legal title of the school 14537
property in the territory transferred shall be vested in the board 14538
of education or governing board of the school district to which 14539
the territory is transferred. 14540

(B) Whenever the transfer of territory pursuant to this section is initiated by a board of education, the board shall, before filing a proposal for transfer with the state board of education under this section, make a good faith effort to negotiate the terms of transfer with any other school district whose territory would be affected by the transfer. Before the state board may hold a hearing on the transfer, or approve or disapprove any such transfer, it must receive the following:

(1) A resolution requesting approval of the transfer, passed by the school district submitting the proposal;

(2) Evidence determined to be sufficient by the state board to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(3) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

Negotiations held pursuant to this section shall be governed by the rules adopted by the state board under division (D) of section 3311.06 of the Revised Code. Districts involved in a transfer under division (B) of this section may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

Sec. 3311.52. A cooperative education school district may be established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code.

(A) A cooperative education school district may be established upon the adoption of identical resolutions within a

sixty-day period by a majority of the members of the board of 14571
education of each city, local, and exempted village school 14572
district that is within the territory of a county school financing 14573
district. 14574

A copy of each resolution shall be filed with the board of 14575
education of the educational service center which created the 14576
county school financing district. Upon the filing of the last such 14577
resolution, the educational service center governing board shall 14578
immediately notify each board of education filing such a 14579
resolution of the date on which the last resolution was filed. 14580

Ten days after the date on which the last resolution is filed 14581
with the educational service center governing board or ten days 14582
after the last of any notices required under division (C) of this 14583
section is received by the educational service center governing 14584
board, whichever is later, the county school financing district 14585
shall be dissolved and the new cooperative education school 14586
district and the board of education of the cooperative education 14587
school district shall be established. 14588

On the date that any county school financing district is 14589
dissolved and a cooperative education school district is 14590
established under this section, each of the following shall apply: 14591

(1) The territory of the dissolved district becomes the 14592
territory of the new district. 14593

(2) Any outstanding tax levy in force in the dissolved 14594
district shall be spread over the territory of the new district 14595
and shall remain in force in the new district until the levy 14596
expires or is renewed. 14597

(3) Any funds of the dissolved district shall be paid over in 14598
full to the new district. 14599

(4) Any net indebtedness of the dissolved district shall be 14600
assumed in full by the new district. As used in division (A)(4) of 14601

this section, "net indebtedness" means the difference between the 14602
par value of the outstanding and unpaid bonds and notes of the 14603
dissolved district and the amount held in the sinking fund and 14604
other indebtedness retirement funds for their redemption. 14605

When a county school financing district is dissolved and a 14606
cooperative education school district is established under this 14607
section, the governing board of the educational service center 14608
that created the dissolved district shall give written notice of 14609
this fact to the county auditor and the board of elections of each 14610
county having any territory in the new district. 14611

(B) The resolutions adopted under division (A) of this 14612
section shall include all of the following provisions: 14613

(1) Provision that the governing board of the educational 14614
service center which created the county school financing district 14615
shall be the board of education of the cooperative education 14616
school district, except that provision may be made for the 14617
composition, selection, and terms of office of an alternative 14618
board of education of the cooperative district, which board shall 14619
include at least one member selected from or by the members of the 14620
board of education of each city, local, and exempted village 14621
school district and at least one member selected from or by the 14622
members of the educational service center governing board within 14623
the territory of the cooperative district; 14624

(2) Provision that the treasurer and superintendent of the 14625
educational service center which created the county school 14626
financing district shall be the treasurer and superintendent of 14627
the cooperative education school district, except that provision 14628
may be made for the selection of a treasurer or superintendent of 14629
the cooperative district other than the treasurer or 14630
superintendent of the educational service center, which provision 14631
shall require one of the following: 14632

(a) The selection of one person as both the treasurer and 14633
superintendent of the cooperative district, which provision may 14634
require such person to be the treasurer or superintendent of any 14635
city, local, or exempted village school district or educational 14636
service center within the territory of the cooperative district; 14637

(b) The selection of one person as the treasurer and another 14638
person as the superintendent of the cooperative district, which 14639
provision may require either one or both such persons to be 14640
treasurers or superintendents of any city, local, or exempted 14641
village school districts or educational service center within the 14642
territory of the cooperative district. 14643

(3) A statement of the educational program the board of 14644
education of the cooperative education school district will 14645
conduct, including but not necessarily limited to the type of 14646
educational program, the grade levels proposed for inclusion in 14647
the program, the timetable for commencing operation of the 14648
program, and the facilities proposed to be used or constructed to 14649
be used by the program; 14650

(4) A statement of the annual amount, or the method for 14651
determining that amount, of funds or services or facilities that 14652
each city, local, and exempted village school district within the 14653
territory of the cooperative district is required to pay to or 14654
provide for the use of the board of education of the cooperative 14655
education school district; 14656

(5) Provision for adopting amendments to the provisions of 14657
divisions (B)(2) to (4) of this section. 14658

(C) If the resolutions adopted under division (A) of this 14659
section provide for a board of education of the cooperative 14660
education school district that is not the governing board of the 14661
educational service center that created the county school 14662
financing district, each board of education of each city, local, 14663

or exempted village school district and the governing board of the 14664
educational service center within the territory of the cooperative 14665
district shall, within thirty days after the date on which the 14666
last resolution is filed with the educational service center 14667
governing board under division (A) of this section, select one or 14668
more members of the board of education of the cooperative district 14669
as provided in the resolutions filed with the educational service 14670
center governing board. Each such board shall immediately notify 14671
the educational ~~services~~ service center governing board of each 14672
such selection. 14673

(D) Except for the powers and duties in this chapter and 14674
Chapters 124., 3317., 3318., 3323., and 3331. of the Revised Code, 14675
a cooperative education school district established pursuant to 14676
divisions (A) to (C) of this section or pursuant to section 14677
3311.521 of the Revised Code has all the powers of a city school 14678
district and its board of education has all the powers and duties 14679
of a board of education of a city school district with respect to 14680
the educational program specified in the resolutions adopted under 14681
division (A) of this section. All laws applicable to a city school 14682
district or the board of education or the members of the board of 14683
education of a city school district, except such laws in this 14684
chapter and Chapters 124., 3317., 3318., 3323., and 3331. of the 14685
Revised Code, are applicable to a cooperative education school 14686
district and its board. 14687

The treasurer and superintendent of a cooperative education 14688
school district shall have the same respective duties and powers 14689
as a treasurer and superintendent of a city school district, 14690
except for any powers and duties in this chapter and Chapters 14691
124., 3317., 3318., 3323., and 3331. of the Revised Code. 14692

(E) For purposes of this title, any student included in the 14693
formula ADM or average daily attendance certified for any city, 14694
exempted village, or local school district under section 3317.03 14695

or 3317.034 of the Revised Code by virtue of being counted, in 14696
whole or in part, in the average daily membership or average daily 14697
attendance of a cooperative education school district under 14698
~~division (A)(2)(f) of that~~ either section shall be construed to be 14699
enrolled both in that city, exempted village, or ~~village~~ local 14700
school district and in that cooperative education school district. 14701
This division shall not be construed to mean that any such 14702
individual student may be counted more than once for purposes of 14703
determining the average daily membership or average daily 14704
attendance of any one school district. 14705

Sec. 3313.647. As used in this division, "graduate" means a 14706
person who has received a diploma from a district pursuant to 14707
section 3313.61 of the Revised Code. 14708

Pursuant to rules adopted by the state board of education, a 14709
city, local, exempted village, or joint vocational school district 14710
may establish a policy guaranteeing a specific level of competency 14711
of certain graduates of the district. The guarantee policy shall 14712
specify that any graduate meeting specified criteria established 14713
by the board is capable of performing specified functions at a 14714
level established in the policy. Any employer or potential 14715
employer of a graduate who is guaranteed under such a policy may 14716
submit a written statement to the board of education stating the 14717
guaranteed graduate of its district does not meet the level of 14718
competency specified in the district's guarantee policy. Upon 14719
receipt of such statement the board of education shall provide an 14720
opportunity for additional education to the graduate, regardless 14721
of the graduate's age or place of residence, until such individual 14722
attains the competency level specified in the policy. No fee shall 14723
be charged to any person or government entity for such additional 14724
education. A school board may expend school funds for a guarantee 14725
program; however, no student participating in the program shall be 14726
included in the formula ADM or average daily attendance of the 14727

district as determined under section 3317.03 or 3317.034 of the 14728
Revised Code or included as a participant in any other program, if 14729
such inclusion would result in additional state funds to the 14730
school district. 14731

The state board of education shall adopt rules for the 14732
adoption of a policy under this section and for the additional 14733
education program described under this section. 14734

Sec. 3313.90. As used in this section, "formula ADM" ~~has~~ and 14735
"average daily attendance" have the same ~~meaning~~ meanings as in 14736
section 3317.02 of the Revised Code. Notwithstanding division (D) 14737
of section 3311.19 and division (D) of section 3311.52 of the 14738
Revised Code, the provisions of this section that apply to a city 14739
school district do not apply to any joint vocational or 14740
cooperative education school district. 14741

(A) Each city, local, and exempted village school district 14742
shall, by one of the following means, provide vocational education 14743
adequate to prepare a pupil enrolled therein for an occupation: 14744

(1) Establishing and maintaining a vocational education 14745
program that meets standards adopted by the state board of 14746
education; 14747

(2) Being a member of a joint vocational school district that 14748
meets standards adopted by the state board; 14749

(3) Contracting for vocational education with a joint 14750
vocational school district or another school district that meets 14751
the standards adopted by the state board. 14752

The standards of the state board of education shall include 14753
criteria for the participation by nonpublic students in vocational 14754
education programs without financial assessment, charge, or 14755
tuition to such student except such assessments, charges, or 14756
tuition paid by resident public school students in such programs. 14757

Such nonpublic school students shall be included in the formula 14758
ADM or average daily attendance of the school district maintaining 14759
the vocational education program as part-time students in 14760
proportion to the time spent in the vocational education program. 14761

By the thirtieth day of October of each year, the 14762
superintendent of public instruction shall determine and certify 14763
to the superintendent of each school district subject to this 14764
section either that the district is in compliance with the 14765
requirements of this section for the current school year or that 14766
the district is not in compliance. If the superintendent certifies 14767
that the district is not in compliance, he shall notify the board 14768
of education of the district of the actions necessary to bring the 14769
district into compliance with this section. 14770

In meeting standards established by the state board of 14771
education, school districts, where practicable, shall provide 14772
vocational programs in high schools. A minimum enrollment of 14773
fifteen hundred pupils in grades nine through twelve is 14774
established as a base for comprehensive vocational course 14775
offerings. A school district may meet this requirement alone, 14776
through a cooperative arrangement pursuant to section 3313.92 of 14777
the Revised Code, through school district consolidation, by 14778
membership in a joint vocational school district, by contract with 14779
a school district, by contract with a school licensed by any state 14780
agency established by the Revised Code which school operates its 14781
courses offered for contracting with public schools under 14782
standards as to staffing and facilities comparable to those 14783
prescribed by the state board of education for public schools 14784
provided no instructor in such courses shall be required to be 14785
certificated by the state department of education, or in a 14786
combination of such ways. Exceptions to the minimum requirement of 14787
fifteen hundred pupils may be made by the state board of education 14788
based on sparsity of population or other factors indicating that 14789

comprehensive educational and vocational programs as required by 14790
this section can be provided through an alternate plan. 14791

(B) Approval of state funds for the construction and 14792
operation of vocational facilities in any city, local, or exempted 14793
village school district shall be contingent upon a comprehensive 14794
vocational program plan approved by the state board of education 14795
no later than July 1, 1970. The state board of education shall not 14796
approve a school district plan unless the plan proposed reasonably 14797
meets the vocational needs of other school districts in the 14798
general area of the school districts in the general area of the 14799
school district submitting the plan. The plan shall be submitted 14800
to the state board of education no later than April 1, 1970. Such 14801
plan shall contain: 14802

(1) The organization for vocational education pursuant to the 14803
requirements of this section; 14804

(2) Vocational programs to be offered in the respective 14805
comprehensive high schools, in specialized schools or skill 14806
centers, and in joint vocational schools; 14807

(3) Remodeled, additional, and new vocational facilities 14808
required at the respective locations. 14809

In approving the organization for vocational education the 14810
state board of education shall provide that no city, local, or 14811
exempted village school district is excluded in the statewide 14812
plan. 14813

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 14814
(F), and (G) of this section, when a board of education decides to 14815
dispose of real or personal property that it owns in its corporate 14816
capacity, and that exceeds in value ten thousand dollars, it shall 14817
sell the property at public auction, after giving at least thirty 14818
days' notice of the auction by publication in a newspaper of 14819

general circulation or by posting notices in five of the most 14820
public places in the school district in which the property, if it 14821
is real property, is situated, or, if it is personal property, in 14822
the school district of the board of education that owns the 14823
property. The board may offer real property for sale as an entire 14824
tract or in parcels. 14825

(B) When the board of education has offered real or personal 14826
property for sale at public auction at least once pursuant to 14827
division (A) of this section, and the property has not been sold, 14828
the board may sell it at a private sale. Regardless of how it was 14829
offered at public auction, at a private sale, the board shall, as 14830
it considers best, sell real property as an entire tract or in 14831
parcels, and personal property in a single lot or in several lots. 14832

(C) If a board of education decides to dispose of real or 14833
personal property that it owns in its corporate capacity and that 14834
exceeds in value ten thousand dollars, it may sell the property to 14835
the adjutant general; to any subdivision or taxing authority as 14836
respectively defined in divisions (A) and (C) of section 5705.01 14837
of the Revised Code, township park district, board of park 14838
commissioners established under Chapter 755. of the Revised Code, 14839
or park district established under Chapter 1545. of the Revised 14840
Code; to a wholly or partially tax-supported university, 14841
university branch, or college; or to the board of trustees of a 14842
school district library, upon such terms as are agreed upon. The 14843
sale of real or personal property to the board of trustees of a 14844
school district library is limited, in the case of real property, 14845
to a school district library within whose boundaries the real 14846
property is situated, or, in the case of personal property, to a 14847
school district library whose boundaries lie in whole or in part 14848
within the school district of the selling board of education. 14849

(D) When a board of education decides to trade as a part or 14850
an entire consideration, an item of personal property on the 14851

purchase price of an item of similar personal property, it may 14852
trade the same upon such terms as are agreed upon by the parties 14853
to the trade. 14854

(E) The president and the treasurer of the board of education 14855
shall execute and deliver deeds or other necessary instruments of 14856
conveyance to complete any sale or trade under this section. 14857

(F) When a board of education has identified a parcel of real 14858
property that it determines is needed for school purposes, the 14859
board may, upon a majority vote of the members of the board, 14860
acquire that property by exchanging real property that the board 14861
owns in its corporate capacity for the identified real property or 14862
by using real property that the board owns in its corporate 14863
capacity as part or an entire consideration for the purchase price 14864
of the identified real property. Any exchange or acquisition made 14865
pursuant to this division shall be made by a conveyance executed 14866
by the president and the treasurer of the board. 14867

(G)(1) When a school district board of education decides to 14868
dispose of real property suitable for use as classroom space, 14869
prior to disposing of such property under division (A) through (F) 14870
of this section, it shall first offer that property for sale to 14871
the governing authorities of the start-up community schools, 14872
established under Chapter 3314. of the Revised Code and located 14873
within the territory of the school district, at a price that is 14874
not higher than the appraised fair market value of that property. 14875
If more than one community school governing authority accepts the 14876
offer made by the school district board, the board shall sell the 14877
property to the governing authority that accepted the offer first 14878
in time. If no community school governing authority accepts the 14879
offer within sixty days after the offer is made by the school 14880
district board, the board may dispose of the property in the 14881
applicable manner prescribed under divisions (A) to (F) of this 14882
section. 14883

(2) If disposal of real property is planned as a part of a school district project under Chapter 3318. of the Revised Code, the Ohio school facilities commission shall not release any state funds to a school district until the district has complied with the provisions of division (G)(1) of this section.

Sec. 3313.48. The board of education of each city, exempted village, local, and joint vocational school district shall provide for the free education of the youth of school age within the district under its jurisdiction, at such places as will be most convenient for the attendance of the largest number thereof. ~~Except as provided in section 3313.481 of the Revised Code, each~~ Each school so provided and each nonpublic school shall be open for instruction with pupils in attendance for not less than one hundred eighty-two days four hundred fifty-five hours in the case of pupils in kindergarten unless such pupils are provided all-day kindergarten, as defined in section 3317.029 of the Revised Code, in which case the pupils shall be in attendance for nine hundred ten hours; nine hundred ten hours in the case of pupils in grades one through eight; and one thousand one hours in the case of pupils in grades nine through twelve in each school year, which may include all of the following:

(A) ~~Up to four school days ten hours per year in which classes are dismissed one half day early or the equivalent amount of time during a different number of days during which pupils would otherwise be in attendance but are not required to attend~~ for the purpose of individualized parent-teacher conferences and reporting periods;

(B) ~~Up to two days~~ ten hours per year for professional meetings of teachers when such ~~days~~ hours occur during a regular school week and schools are not in session;

(C) ~~The number of days the school is closed as a result of~~

~~public calamity, as provided in section 3317.01 of the Revised Code Morning and afternoon recess periods of not more than fifteen minutes duration per period for pupils in grades kindergarten through six.~~ 14915
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~~The state board of education shall adopt standards for defining "school day" as used in sections 3313.48 and 3317.01 of the Revised Code.~~ 14919
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~~Except as otherwise provided in this section, each day for grades seven through twelve shall consist of not less than five e-lock hours with pupils in attendance, except in such emergency situations, including lack of classroom space, as are approved by the state board of education. Except as otherwise provided in this section, each day for grades one through six shall consist of not less than five e-lock hours with pupils in attendance which may include fifteen minute morning and afternoon recess periods, except in such emergency situations, including lack of classroom space, as are approved by the state board of education.~~ 14922
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Sec. 3313.481. Wherever in Title XXXIII of the Revised Code the term "school day" is used, unless otherwise specified, that term shall be construed to mean the time during a calendar day that a school is open for instruction pursuant to the schedule adopted by the board of education of the school district or the governing authority of the nonpublic school in accordance with section 3313.48 of the Revised Code. 14932
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Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following: 14939
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(1) The purpose of the school, which purpose shall be to 14944

serve students who are on suspension, who are having truancy 14945
problems, who are experiencing academic failure, who have a 14946
history of class disruption, or who are exhibiting other academic 14947
or behavioral problems specified in the resolution; 14948

(2) The grades served by the school, which may include any of 14949
grades kindergarten through twelve; 14950

(3) A requirement that the school be operated in accordance 14951
with this section. The board of education adopting the resolution 14952
under division (A) of this section shall be the governing board of 14953
the alternative school. The board shall develop and implement a 14954
plan for the school in accordance with the resolution establishing 14955
the school and in accordance with this section. Each plan shall 14956
include, but not necessarily be limited to, all of the following: 14957

(a) Specification of the reasons for which students will be 14958
accepted for assignment to the school and any criteria for 14959
admission that are to be used by the board to approve or 14960
disapprove the assignment of students to the school; 14961

(b) Specification of the criteria and procedures that will be 14962
used for returning students who have been assigned to the school 14963
back to the regular education program of the district; 14964

(c) An evaluation plan for assessing the effectiveness of the 14965
school and its educational program and reporting the results of 14966
the evaluation to the public. 14967

(B) Notwithstanding any provision of Title XXXIII of the 14968
Revised Code to the contrary, the alternative school plan may 14969
include any of the following: 14970

(1) A requirement that on each school day students must 14971
attend school or participate in other programs specified in the 14972
plan or by the chief administrative officer of the school for a 14973
period equal to the minimum school day set by the ~~state~~ board of 14974
education under section 3313.48 of the Revised Code plus any 14975

additional time required in the plan or by the chief	14976
administrative officer;	14977
(2) Restrictions on student participation in extracurricular	14978
or interscholastic activities;	14979
(3) A requirement that students wear uniforms prescribed by	14980
the district board of education.	14981
(C) In accordance with the alternative school plan, the	14982
district board of education may employ teachers and nonteaching	14983
employees necessary to carry out its duties and fulfill its	14984
responsibilities or may contract with a nonprofit or for profit	14985
entity to operate the alternative school, including the provision	14986
of personnel, supplies, equipment, or facilities.	14987
(D) An alternative school may be established in all or part	14988
of a school building.	14989
(E) If a district board of education elects under this	14990
section, or is required by section 3313.534 of the Revised Code,	14991
to establish an alternative school, the district board may join	14992
with the board of education of one or more other districts to form	14993
a joint alternative school by forming a cooperative education	14994
school district under section 3311.52 or 3311.521 of the Revised	14995
Code, or a joint educational program under section 3313.842 of the	14996
Revised Code. The authority to employ personnel or to contract	14997
with a nonprofit or for profit entity under division (C) of this	14998
section applies to any alternative school program established	14999
under this division.	15000
(F) Any individual employed as a teacher at an alternative	15001
school operated by a nonprofit or for profit entity under this	15002
section shall be licensed and shall be subject to background	15003
checks, as described in section 3319.39 of the Revised Code, in	15004
the same manner as an individual employed by a school district.	15005
(G) Division (G) of this section applies only to any	15006

alternative school that is operated by a nonprofit or for profit 15007
entity under contract with the school district. 15008

(1) In addition to the specifications authorized under 15009
division (B) of this section, any plan adopted under that division 15010
for an alternative school to which division (G) of this section 15011
also applies shall include the following: 15012

(a) A description of the educational program provided at the 15013
alternative school, which shall include: 15014

(i) Provisions for the school to be configured in clusters or 15015
small learning communities; 15016

(ii) Provisions for the incorporation of education technology 15017
into the curriculum; 15018

(iii) Provisions for accelerated learning programs in reading 15019
and mathematics. 15020

(b) A method to determine the reading and mathematics level 15021
of each student assigned to the alternative school and a method to 15022
continuously monitor each student's progress in those areas. The 15023
methods employed under this division shall be aligned with the 15024
curriculum adopted by the school district board of education under 15025
section 3313.60 of the Revised Code. 15026

(c) A plan for social services to be provided at the 15027
alternative school, such as, but not limited to, counseling 15028
services, psychological support services, and enrichment programs; 15029

(d) A plan for a student's transition from the alternative 15030
school back to a school operated by the school district; 15031

(e) A requirement that the alternative school maintain 15032
financial records in a manner that is compatible with the form 15033
prescribed for school districts by the auditor of state to enable 15034
the district to comply with any rules adopted by the auditor of 15035
state. 15036

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of at least two consecutive weeks prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed; 15067
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(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond; 15070
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(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties. 15072
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(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following: 15076
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(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school; 15082
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(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board; 15087
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(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school; 15090
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(d) Financial responsibility. 15093

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the 15094
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students and the district. If fewer than three proposals are 15097
submitted, the board shall select each proposal submitted. The 15098
board may cancel a request for proposals or reject all proposals 15099
at any time prior to the execution of a contract. 15100

The board may hold discussions with any of the three selected 15101
respondents to clarify or revise the provisions of a proposal or 15102
the proposed contract to ensure complete understanding between the 15103
board and the respondent of the terms under which a contract will 15104
be entered. Respondents shall be accorded fair and equal treatment 15105
with respect to any opportunity for discussion regarding 15106
clarifications or revisions. The board may terminate or 15107
discontinue any further discussion with a respondent upon written 15108
notice. 15109

(4) Upon further review of the three proposals selected by 15110
the board, the board shall award a contract to the respondent the 15111
board considers to have the most merit, taking into consideration 15112
the scope, complexity, and nature of the services to be performed 15113
by the respondent under the contract. 15114

(5) Except as provided in division (H)(6) of this section, 15115
the request for proposals, submitted proposals, and related 15116
documents shall become public records under section 149.43 of the 15117
Revised Code after the award of the contract. 15118

(6) Any respondent may request in writing that the board not 15119
disclose confidential or proprietary information or trade secrets 15120
contained in the proposal submitted by the respondent to the 15121
board. Any such request shall be accompanied by an offer of 15122
indemnification from the respondent to the board. The board shall 15123
determine whether to agree to the request and shall inform the 15124
respondent in writing of its decision. If the board agrees to 15125
nondisclosure of specified information in a proposal, such 15126
information shall not become a public record under section 149.43 15127
of the Revised Code. If the respondent withdraws its proposal at 15128

any time prior to the execution of a contract, the proposal shall 15129
not be a public record under section 149.43 of the Revised Code. 15130

(I) Upon a recommendation from the department and in 15131
accordance with section 3301.16 of the Revised Code, the state 15132
board of education may revoke the charter of any alternative 15133
school operated by a school district that violates this section. 15134

Sec. 3313.62. The school year shall begin on the first day of 15135
July of each calendar year and close on the thirtieth day of June 15136
of the succeeding calendar year. ~~A school week shall consist of 15137
five days, and a school month of four school weeks.~~ 15138

Sec. 3313.979. Each scholarship ~~or grant~~ to be used for 15139
payments to a registered private school ~~or to an approved tutorial 15140
assistance provider~~ is payable to the parents of the student 15141
entitled to the scholarship ~~or grant~~. Each scholarship to be used 15142
for payments to a public school in an adjacent school district is 15143
payable to the school district of attendance by the superintendent 15144
of public instruction. Each grant to be used for payments to an 15145
approved tutorial assistance provider is payable to the approved 15146
tutorial assistance provider. 15147

(A)(1) By the fifteenth day of each month of the school year 15148
that any scholarship students are enrolled in a registered private 15149
school, the chief administrator of that school shall notify the 15150
state superintendent of: 15151

(a) The number of students who were reported to the school 15152
district as having been admitted by that private school pursuant 15153
to division (A)(2)(b) of section 3313.978 of the Revised Code and 15154
who were still enrolled in the private school as of the first day 15155
of such month, and the numbers of such students who qualify for 15156
seventy-five and ninety per cent of the scholarship amount; 15157

(b) The number of students who were reported to the school 15158

district as having been admitted by another private school 15159
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 15160
Code and since the date of admission have transferred to the 15161
school providing the notification under division (A)(1) of this 15162
section, and the numbers of such students who qualify for 15163
seventy-five and ninety per cent of the scholarship amount. 15164

(2) From time to time, the state superintendent shall make a 15165
payment to the parent of each student entitled to a scholarship. 15166
Each payment shall include for each student reported under 15167
division (A)(1) of this section, a portion of seventy-five or 15168
ninety per cent, as applicable, of the scholarship amount 15169
specified in divisions (C)(1) and (2) of section 3313.978 of the 15170
Revised Code. This amount shall be proportionately reduced in the 15171
case of any such student who is not enrolled in a registered 15172
private school for the entire school year. 15173

(3) The first payment under this division shall be made by 15174
the last day of November and shall equal one-third of seventy-five 15175
or ninety per cent, as applicable, of the estimated total amount 15176
that will be due to the parent for the school year pursuant to 15177
division (A)(2) of this section. 15178

(B) The state superintendent, on behalf of the parents of a 15179
scholarship student enrolled in a public school in an adjacent 15180
school district pursuant to section 3327.06 of the Revised Code, 15181
shall make the tuition payments required by that section to the 15182
school district admitting the student, except that, 15183
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 15184
Revised Code, the total payments in any school year shall not 15185
exceed seventy-five or ninety per cent, as applicable, of the 15186
scholarship amount provided in divisions (C)(1) and (2) of section 15187
3313.978 of the Revised Code. 15188

(C) Whenever an approved provider provides tutorial 15189
assistance to a student, the state superintendent shall pay the 15190

~~parent approved provider~~ for such costs upon receipt of a 15191
statement ~~from the parent~~ specifying the services provided and the 15192
costs of the services, which statement shall be signed by the 15193
provider and verified by the chief administrator having 15194
supervisory control over the tutoring site. The total payments to 15195
any ~~parent approved provider~~ under this division for all provider 15196
services to any individual student in any school year shall not 15197
exceed seventy-five or ninety per cent, as applicable, of the 15198
grant amount provided in division (C)(3) of section 3313.978 of 15199
the Revised Code. 15200

Sec. 3313.981. (A) The state board shall adopt rules 15201
requiring all of the following: 15202

(1) The board of education of each city, exempted village, 15203
and local school district to annually report to the department of 15204
education all of the following: 15205

(a) The number of adjacent district or other district 15206
students, as applicable, and adjacent district or other district 15207
joint vocational students, as applicable, enrolled in the district 15208
and the number of native students enrolled in adjacent or other 15209
districts, in accordance with a policy adopted under division (B) 15210
of section 3313.98 of the Revised Code; 15211

(b) Each adjacent district or other district student's or 15212
adjacent district or other district joint vocational student's 15213
date of enrollment in the district; 15214

(c) The full-time equivalent number of adjacent district or 15215
other district students enrolled in vocational education programs 15216
or classes described in division (A) of section 3317.014 of the 15217
Revised Code and the full-time equivalent number of such students 15218
enrolled in vocational education programs or classes described in 15219
division (B) of that section; 15220

(d) Each native student's date of enrollment in an adjacent	15221
or other district.	15222
(2) The board of education of each joint vocational school	15223
district to annually report to the department all of the	15224
following:	15225
(a) The number of adjacent district or other district joint	15226
vocational students, as applicable, enrolled in the district;	15227
(b) The full-time equivalent number of adjacent district or	15228
other district joint vocational students enrolled in vocational	15229
education programs or classes described in division (A) of section	15230
3317.014 of the Revised Code and the full-time equivalent number	15231
of such students enrolled in vocational education programs or	15232
classes described in division (B) of that section;	15233
(c) For each adjacent district or other district joint	15234
vocational student, the city, exempted village, or local school	15235
district in which the student is also enrolled.	15236
(3) Prior to the first full school week in October each year,	15237
the superintendent of each city, local, or exempted village school	15238
district that admits adjacent district or other district students	15239
or adjacent district or other district joint vocational students	15240
in accordance with a policy adopted under division (B) of section	15241
3313.98 of the Revised Code to notify each adjacent or other	15242
district where those students are entitled to attend school under	15243
section 3313.64 or 3313.65 of the Revised Code of the number of	15244
the adjacent or other district's native students who are enrolled	15245
in the superintendent's district under the policy.	15246
The rules shall provide for the method of counting students	15247
who are enrolled for part of a school year in an adjacent or other	15248
district or as an adjacent district or other district joint	15249
vocational student.	15250

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount for the district;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the full-time equivalent number of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section.

(C) To the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the adjusted formula amount for the district multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E)

of this section for any adjacent district or other district 15282
students, except for any adjacent or other district joint 15283
vocational students, receiving special education and related 15284
services in the district; 15285

(3) For the full-time equivalent number of the adjacent or 15286
other district students who are not adjacent district or other 15287
district joint vocational students and are reported under division 15288
(A)(1)(c) of this section as enrolled in vocational education 15289
programs or classes described in section 3317.014 of the Revised 15290
Code, an amount equal to the formula amount times the applicable 15291
multiple prescribed by that section; 15292

(4) An amount equal to the number of adjacent district or 15293
other district joint vocational students reported under division 15294
(A)(1) of this section multiplied by an amount equal to one-fourth 15295
of the adjusted formula amount for the district. 15296

(D) To the payments made to a joint vocational school 15297
district under Chapter 3317. of the Revised Code, the department 15298
of education shall add, for each adjacent district or other 15299
district joint vocational student reported under division (A)(2) 15300
of this section, both of the following: 15301

(1) An amount equal to the adjusted formula amount of the 15302
city, exempted village, or local school district in which the 15303
student is also enrolled; 15304

(2) An amount equal to the full-time equivalent number of 15305
students reported pursuant to division (A)(2)(b) of this section 15306
times the formula amount times the applicable multiple prescribed 15307
by section 3317.014 of the Revised Code. 15308

(E)(1) A city, exempted village, or local school board 15309
providing special education and related services to an adjacent or 15310
other district student in accordance with an IEP shall, pursuant 15311
to rules of the state board, compute the excess costs to educate 15312

such student as follows: 15313

(a) Subtract the adjusted formula amount for the district 15314
from the actual costs to educate the student; 15315

(b) From the amount computed under division (E)(1)(a) of this 15316
section subtract the amount of any funds received by the district 15317
under Chapter 3317. of the Revised Code to provide special 15318
education and related services to the student. 15319

(2) The board shall report the excess costs computed under 15320
this division to the department of education. 15321

(3) If any student for whom excess costs are computed under 15322
division (E)(1) of this section is an adjacent or other district 15323
joint vocational student, the department of education shall add 15324
the amount of such excess costs to the payments made under Chapter 15325
3317. of the Revised Code to the joint vocational school district 15326
enrolling the student. 15327

(F) As provided in division (D)(1)(b) of section 3317.03 and 15328
division (A)(2)(d) of section 3317.034 of the Revised Code, no 15329
joint vocational school district shall count any adjacent or other 15330
district joint vocational student enrolled in the district in its 15331
formula ADM or average daily attendance certified under section 15332
3317.03 or 3317.034 of the Revised Code. 15333

(G) No city, exempted village, or local school district shall 15334
receive a payment under division (C) of this section for a 15335
student, and no joint vocational school district shall receive a 15336
payment under division (D) of this section for a student, ~~if~~ for 15337
the same school ~~year~~ month that the student is counted in the 15338
district's ~~formula ADM~~ average daily attendance certified under 15339
section ~~3317.03~~ 3317.034 of the Revised Code. 15340

(H) Upon request of a parent, and provided the board offers 15341
transportation to native students of the same grade level and 15342
distance from school under section 3327.01 of the Revised Code, a 15343

city, exempted village, or local school board enrolling an 15344
adjacent or other district student shall provide transportation 15345
for the student within the boundaries of the board's district, 15346
except that the board shall be required to pick up and drop off a 15347
nonhandicapped student only at a regular school bus stop 15348
designated in accordance with the board's transportation policy. 15349
Pursuant to rules of the state board of education, such board may 15350
reimburse the parent from funds received under division (D) of 15351
section 3317.022 of the Revised Code for the reasonable cost of 15352
transportation from the student's home to the designated school 15353
bus stop if the student's family has an income below the federal 15354
poverty line. 15355

Sec. 3314.02. (A) As used in this chapter: 15356

(1) "Sponsor" means an entity listed in division (C)(1) of 15357
this section, which has been approved by the department of 15358
education to sponsor community schools and with which the 15359
governing authority of the proposed community school enters into a 15360
contract pursuant to this section. 15361

(2) "Pilot project area" means the school districts included 15362
in the territory of the former community school pilot project 15363
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 15364
the 122nd general assembly. 15365

(3) "Challenged school district" means any of the following: 15366

(a) A school district that is part of the pilot project area; 15367

(b) A school district that is either in a state of academic 15368
emergency or in a state of academic watch under section 3302.03 of 15369
the Revised Code; 15370

(c) A big eight school district; 15371

(d) An urban school district. 15372

(4) "Big eight school district" means a school district that 15373

for fiscal year 1997 had both of the following: 15374

(a) A percentage of children residing in the district and 15375
participating in the predecessor of Ohio works first greater than 15376
thirty per cent, as reported pursuant to section 3317.10 of the 15377
Revised Code; 15378

(b) An average daily membership greater than twelve thousand, 15379
as reported pursuant to former division (A) of section 3317.03 of 15380
the Revised Code. 15381

(5) "New start-up school" means a community school other than 15382
one created by converting all or part of an existing public 15383
school, as designated in the school's contract pursuant to 15384
division (A)(17) of section 3314.03 of the Revised Code. 15385

(6) "Urban school district" means one of the state's 15386
twenty-one urban school districts as defined in division (O) of 15387
section 3317.02 of the Revised Code as that section existed prior 15388
to July 1, 1998. 15389

(7) "Internet- or computer-based community school" means a 15390
community school established under this chapter in which the 15391
enrolled students ~~work~~ participate primarily ~~from their residences~~ 15392
~~on assignments in non-classroom-based learning opportunities~~ 15393
provided via ~~an internet- or~~ internet-based, other computer-based 15394
instructional ~~method that does not rely on regular classroom~~ 15395
~~instruction~~ methods, or noncomputer-based instructional methods. 15396

(B) Any person or group of individuals may initially propose 15397
under this division the conversion of all or a portion of a public 15398
school to a community school. No conversion community school shall 15399
be an internet- or computer-based community school. The proposal 15400
shall be made to the board of education of the city, local, or 15401
exempted village school district in which the public school is 15402
proposed to be converted. Upon receipt of a proposal, a board may 15403
enter into a preliminary agreement with the person or group 15404

proposing the conversion of the public school, indicating the 15405
intention of the board of education to support the conversion to a 15406
community school. A proposing person or group that has a 15407
preliminary agreement under this division may proceed to finalize 15408
plans for the school, establish a governing authority for the 15409
school, and negotiate a contract with the board of education. 15410
Provided the proposing person or group adheres to the preliminary 15411
agreement and all provisions of this chapter, the board of 15412
education shall negotiate in good faith to enter into a contract 15413
in accordance with section 3314.03 of the Revised Code and 15414
division (C) of this section. 15415

(C)(1) Any person or group of individuals may propose under 15416
this division the establishment of a new start-up school to be 15417
located in a challenged school district. The proposal may be made 15418
to any of the following entities: 15419

(a) The board of education of the district in which the 15420
school is proposed to be located; 15421

(b) The board of education of any joint vocational school 15422
district with territory in the county in which is located the 15423
majority of the territory of the district in which the school is 15424
proposed to be located; 15425

(c) The board of education of any other city, local, or 15426
exempted village school district having territory in the same 15427
county where the district in which the school is proposed to be 15428
located has the major portion of its territory; 15429

(d) The governing board of any educational service center ~~as~~ 15430
~~long as the proposed school will be located in a county within the~~ 15431
~~territory of the service center or in a county contiguous to such~~ 15432
~~county;~~ 15433

(e) A sponsoring authority designated by the board of 15434
trustees of any of the thirteen state universities listed in 15435

section 3345.011 of the Revised Code or the board of trustees 15436
itself as long as a mission of the proposed school to be specified 15437
in the contract under division (A)(2) of section 3314.03 of the 15438
Revised Code and as approved by the department of education under 15439
division (B)(2) of section 3314.015 of the Revised Code will be 15440
the practical demonstration of teaching methods, educational 15441
technology, or other teaching practices that are included in the 15442
curriculum of the university's teacher preparation program 15443
approved by the state board of education; 15444

(f) Any qualified tax-exempt entity under section 501(c)(3) 15445
of the Internal Revenue Code as long as all of the following 15446
conditions are satisfied: 15447

(i) The entity has been in operation for at least five years 15448
prior to applying to be a community school sponsor. 15449

(ii) The entity has assets of at least five hundred thousand 15450
dollars. 15451

(iii) The department of education has determined that the 15452
entity is an education-oriented entity under division (B)(3) of 15453
section 3314.015 of the Revised Code. 15454

Until July 1, 2005, any entity described in division 15455
(C)(1)(f) of this section may sponsor only schools that formerly 15456
were sponsored by the state board of education under division 15457
(C)(1)(d) of this section, as it existed prior to ~~the effective~~ 15458
~~date of this amendment~~ April 8, 2003. After July 1, 2005, such 15459
entity may sponsor any new or existing school. 15460

Any entity described in division (C)(1) of this section may 15461
enter into a preliminary agreement pursuant to division (C)(2) of 15462
this section with the proposing person or group. 15463

(2) A preliminary agreement indicates the intention of an 15464
entity described in division (C)(1) of this section to sponsor the 15465
community school. A proposing person or group that has such a 15466

preliminary agreement may proceed to finalize plans for the 15467
school, establish a governing authority as described in division 15468
(E) of this section for the school, and negotiate a contract with 15469
the entity. Provided the proposing person or group adheres to the 15470
preliminary agreement and all provisions of this chapter, the 15471
entity shall negotiate in good faith to enter into a contract in 15472
accordance with section 3314.03 of the Revised Code. 15473

(3) A new start-up school that is established in a school 15474
district while that district is either in a state of academic 15475
emergency or in a state of academic watch under section 3302.03 of 15476
the Revised Code may continue in existence once the school 15477
district is no longer in a state of academic emergency or academic 15478
watch, provided there is a valid contract between the school and a 15479
sponsor. 15480

(4) A copy of every preliminary agreement entered into under 15481
this division shall be filed with the superintendent of public 15482
instruction. 15483

(D) A majority vote of the board of a sponsoring entity and a 15484
majority vote of the members of the governing authority of a 15485
community school shall be required to adopt a contract and convert 15486
the public school to a community school or establish the new 15487
start-up school. Up to the statewide limit prescribed in section 15488
3314.013 of the Revised Code, an unlimited number of community 15489
schools may be established in any school district provided that a 15490
contract is entered into for each community school pursuant to 15491
this chapter. 15492

(E) As used in this division, "immediate relatives" are 15493
limited to spouses, children, parents, grandparents, siblings, and 15494
in-laws. 15495

Each new start-up community school established under this 15496
chapter shall be under the direction of a governing authority 15497

which shall consist of a board of not less than five individuals 15498
who are not owners or employees, or immediate relatives of owners 15499
or employees, of any for-profit firm that operates or manages a 15500
school for the governing authority. 15501

No person shall serve on the governing authority or operate 15502
the community school under contract with the governing authority 15503
so long as the person owes the state any money or is in a dispute 15504
over whether the person owes the state any money concerning the 15505
operation of a community school that has closed. 15506

(F) Nothing in this chapter shall be construed to permit the 15507
establishment of a community school in more than one school 15508
district under the same contract. 15509

Sec. 3314.03. A copy of every contract entered into under 15510
this section shall be filed with the superintendent of public 15511
instruction. 15512

(A) Each contract entered into between a sponsor and the 15513
governing authority of a community school shall specify the 15514
following: 15515

(1) That the school shall be established as either of the 15516
following: 15517

(a) A nonprofit corporation established under Chapter 1702. 15518
of the Revised Code, if established prior to ~~the effective date of~~ 15519
~~this amendment~~ April 8, 2003; 15520

(b) A public benefit corporation established under Chapter 15521
1702. of the Revised Code, if established after ~~the effective date~~ 15522
~~of this amendment~~ April 8, 2003; 15523

(2) The education program of the school, including the 15524
school's mission, the characteristics of the students the school 15525
is expected to attract, the ages and grades of students, and the 15526
focus of the curriculum; 15527

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;	15528 15529 15530
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	15531 15532
(5) The admission standards of section 3314.06 of the Revised Code;	15533 15534
(6)(a) Dismissal procedures;	15535
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five cumulative <u>consecutive</u> hours of the learning opportunities offered to the student. Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.	15536 15537 15538 15539 15540 15541 15542 15543
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	15544 15545
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.	15546 15547 15548 15549 15550 15551
(9) The facilities to be used and their locations;	15552
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised	15553 15554 15555 15556 15557

Code; 15558

(11) That the school will comply with the following 15559
requirements: 15560

(a) The school will provide learning opportunities to a 15561
minimum of twenty-five students for a minimum of nine hundred 15562
twenty hours per school year; 15563

(b) The governing authority will purchase liability 15564
insurance, or otherwise provide for the potential liability of the 15565
school; 15566

(c) The school will be nonsectarian in its programs, 15567
admission policies, employment practices, and all other 15568
operations, and will not be operated by a sectarian school or 15569
religious institution; 15570

(d) The school will comply with sections 9.90, 9.91, 109.65, 15571
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 15572
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 15573
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 15574
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 15575
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 15576
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 15577
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 15578
4123., 4141., and 4167. of the Revised Code as if it were a school 15579
district and will comply with section 3301.0714 of the Revised 15580
Code in the manner specified in section 3314.17 of the Revised 15581
Code; 15582

(e) The school shall comply with Chapter 102. of the Revised 15583
Code except that nothing in that chapter shall prohibit a member 15584
of the school's governing board from also being an employee of the 15585
school and nothing in that chapter or section 2921.42 of the 15586
Revised Code shall prohibit a member of the school's governing 15587
board from having an interest in a contract into which the 15588

governing board enters that is not a contract with a for-profit 15589
firm for the operation or management of a school under the 15590
auspices of the governing authority; 15591

(f) The school will comply with sections 3313.61, 3313.611, 15592
and 3313.614 of the Revised Code, except that the requirement in 15593
sections 3313.61 and 3313.611 of the Revised Code that a person 15594
must successfully complete the curriculum in any high school prior 15595
to receiving a high school diploma may be met by completing the 15596
curriculum adopted by the governing authority of the community 15597
school rather than the curriculum specified in Title XXXIII of the 15598
Revised Code or any rules of the state board of education; 15599

(g) The school governing authority will submit within four 15600
months after the end of each school year a report of its 15601
activities and progress in meeting the goals and standards of 15602
divisions (A)(3) and (4) of this section and its financial status 15603
to the sponsor, the parents of all students enrolled in the 15604
school, and the legislative office of education oversight. The 15605
school will collect and provide any data that the legislative 15606
office of education oversight requests in furtherance of any study 15607
or research that the general assembly requires the office to 15608
conduct, including the studies required under Section 50.39 of Am. 15609
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 15610
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 15611

(12) Arrangements for providing health and other benefits to 15612
employees; 15613

(13) The length of the contract, which shall begin at the 15614
beginning of an academic year. No contract shall exceed five years 15615
unless such contract has been renewed pursuant to division (E) of 15616
this section. 15617

(14) The governing authority of the school, which shall be 15618
responsible for carrying out the provisions of the contract; 15619

(15) A financial plan detailing an estimated school budget 15620
for each year of the period of the contract and specifying the 15621
total estimated per pupil expenditure amount for each such year. 15622
The plan shall specify for each year the base formula amount that 15623
will be used for purposes of funding calculations under section 15624
3314.08 of the Revised Code. This base formula amount for any year 15625
shall not exceed the formula amount defined under section 3317.02 15626
of the Revised Code. The plan may also specify for any year a 15627
percentage figure to be used for reducing the per pupil amount of 15628
disadvantaged pupil impact aid calculated pursuant to section 15629
3317.029 of the Revised Code the school is to receive that year 15630
under section 3314.08 of the Revised Code. 15631

(16) Requirements and procedures regarding the disposition of 15632
employees of the school in the event the contract is terminated or 15633
not renewed pursuant to section 3314.07 of the Revised Code; 15634

(17) Whether the school is to be created by converting all or 15635
part of an existing public school or is to be a new start-up 15636
school, and if it is a converted public school, specification of 15637
any duties or responsibilities of an employer that the board of 15638
education that operated the school before conversion is delegating 15639
to the governing board of the community school with respect to all 15640
or any specified group of employees provided the delegation is not 15641
prohibited by a collective bargaining agreement applicable to such 15642
employees; 15643

(18) Provisions establishing procedures for resolving 15644
disputes or differences of opinion between the sponsor and the 15645
governing authority of the community school; 15646

(19) A provision requiring the governing authority to adopt a 15647
policy regarding the admission of students who reside outside the 15648
district in which the school is located. That policy shall comply 15649
with the admissions procedures specified in section 3314.06 of the 15650

Revised Code and, at the sole discretion of the authority, shall 15651
do one of the following: 15652

(a) Prohibit the enrollment of students who reside outside 15653
the district in which the school is located; 15654

(b) Permit the enrollment of students who reside in districts 15655
adjacent to the district in which the school is located; 15656

(c) Permit the enrollment of students who reside in any other 15657
district in the state. 15658

(20) A provision recognizing the authority of the department 15659
of education to take over the sponsorship of the school in 15660
accordance with the provisions of division (C) of section 3314.015 15661
of the Revised Code; 15662

(21) A provision recognizing the sponsor's authority to 15663
assume the operation of a school under the conditions specified in 15664
division (B) of section 3314.073 of the Revised Code; 15665

(22) A provision recognizing both of the following: 15666

(a) The authority of public health and safety officials to 15667
inspect the facilities of the school and to order the facilities 15668
closed if those officials find that the facilities are not in 15669
compliance with health and safety laws and regulations; 15670

(b) The authority of the department of education as the 15671
community school oversight body to suspend the operation of the 15672
school under section 3314.072 of the Revised Code if the 15673
department has evidence of conditions or violations of law at the 15674
school that pose an imminent danger to the health and safety of 15675
the school's students and employees and the sponsor refuses to 15676
take such action; 15677

(23) A description of the learning opportunities that will be 15678
offered to students including both classroom-based and 15679
non-classroom-based learning opportunities that is in compliance 15680

with criteria for student participation established by the 15681
department under division (L)(2) of section 3314.08 of the Revised 15682
Code. 15683

(B) The community school shall also submit to the sponsor a 15684
comprehensive plan for the school. The plan shall specify the 15685
following: 15686

(1) The process by which the governing authority of the 15687
school will be selected in the future; 15688

(2) The management and administration of the school; 15689

(3) If the community school is a currently existing public 15690
school, alternative arrangements for current public school 15691
students who choose not to attend the school and teachers who 15692
choose not to teach in the school after conversion; 15693

(4) The instructional program and educational philosophy of 15694
the school; 15695

(5) Internal financial controls. 15696

(C) A contract entered into under section 3314.02 of the 15697
Revised Code between a sponsor and the governing authority of a 15698
community school may provide for the community school governing 15699
authority to make payments to the sponsor, which is hereby 15700
authorized to receive such payments as set forth in the contract 15701
between the governing authority and the sponsor. The total amount 15702
of such payments for oversight and monitoring of the school shall 15703
not exceed three per cent of the total amount of payments for 15704
operating expenses that the school receives from the state. 15705

(D) The contract shall specify the duties of the sponsor 15706
which shall be in accordance with the written agreement entered 15707
into with the department of education under division (B) of 15708
section 3314.015 of the Revised Code and shall include the 15709
following: 15710

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	15711 15712
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	15713 15714 15715
(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;	15716 15717 15718 15719
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	15720 15721 15722
(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;	15723 15724 15725 15726 15727 15728 15729
(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.	15730 15731 15732
(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of	15733 15734 15735 15736 15737 15738 15739 15740 15741

sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 15742

Sec. 3314.041. The governing authority of each community 15743
school and any operator of such school shall ~~place in a~~ 15744
~~conspicuous manner in all documents that are distributed~~ 15745
distribute to parents of students of the school ~~or to the general~~ 15746
~~public~~ upon their enrollment in the school the following statement 15747
in writing: 15748

"The (here fill in name of the school) school 15749
is a community school established under Chapter 3314. of the 15750
Revised Code. The school is a public school and students enrolled 15751
in and attending the school are required to take proficiency tests 15752
and other examinations prescribed by law. In addition, there may 15753
be other requirements for students at the school that are 15754
prescribed by law. Students who have been excused from the 15755
compulsory attendance law for the purpose of home education as 15756
defined by the Administrative Code shall no longer be excused for 15757
that purpose upon their enrollment in a community school. For more 15758
information about this matter contact the school administration or 15759
the Ohio Department of Education." 15760

Sec. 3314.07. (A) The expiration of the contract for a 15761
community school between a sponsor and a school shall be the date 15762
provided in the contract. A successor contract may be entered into 15763
pursuant to division (E) of section 3314.03 of the Revised Code 15764
unless the contract is terminated or not renewed pursuant to this 15765
section. 15766

(B)(1) A sponsor may choose not to renew a contract at its 15767
expiration or may choose to terminate a contract prior to its 15768
expiration for any of the following reasons: 15769

(a) Failure to meet student performance requirements stated 15770
in the contract; 15771

(b) Failure to meet generally accepted standards of fiscal management;	15772 15773
(c) Violation of any provision of the contract or applicable state or federal law;	15774 15775
(d) Other good cause.	15776
(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.	15777 15778 15779
(3) At least ninety days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within seventy days of the receipt of a request for the hearing. Promptly following the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.	15780 15781 15782 15783 15784 15785 15786 15787 15788 15789 15790 15791
(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.	15792 15793 15794 15795 15796
(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:	15797 15798 15799
(a) Ninety days following the date the sponsor notifies the school of its decision to terminate the contract as prescribed in	15800 15801

division (B)(3) of this section; 15802

(b) If an informal hearing is requested under division (B)(3) 15803
of this section and as a result of that hearing the sponsor 15804
affirms its decision to terminate the contract, the effective date 15805
of the termination specified in the notice issued under division 15806
(B)(3) of this section, or if that decision is appealed to the 15807
state board under division (B)(4) of this section and the state 15808
board affirms that decision, the date established in the 15809
resolution of the state board affirming the sponsor's decision. 15810

(6) Any community school whose contract is terminated under 15811
this division shall not enter into a contract with any other 15812
sponsor. 15813

(C) A child attending a community school whose contract has 15814
been terminated, nonrenewed, or suspended or that closes for any 15815
reason shall be admitted to the schools of the district in which 15816
the child is entitled to attend under section 3313.64 or 3313.65 15817
of the Revised Code. Any deadlines established for the purpose of 15818
admitting students under section 3313.97 or 3313.98 of the Revised 15819
Code shall be waived for students to whom this division pertains. 15820

(D) If a community school does not intend to renew a contract 15821
with its sponsor, the community school shall notify its sponsor in 15822
writing of that fact at least one hundred eighty days prior to the 15823
expiration of the contract. Such a community school may enter into 15824
a contract with a new sponsor in accordance with section 3314.03 15825
of the Revised Code upon the expiration of the previous contract. 15826

(E) A sponsor of a community school and the officers, 15827
directors, or employees of such a sponsor are not liable in 15828
damages in a tort or other civil action for harm allegedly arising 15829
from either of the following: 15830

(1) A failure of the community school or any of its officers, 15831
directors, or employees to perform any statutory or common law 15832

duty or responsibility or any other legal obligation;	15833
(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.	15834 15835
(E) (F) As used in this section:	15836
(1) "Harm" means injury, death, or loss to person or property.	15837 15838
(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.	15839 15840 15841 15842
Sec. 3314.08. (A) As used in this section:	15843
(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	15844 15845 15846
(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.	15847 15848
(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.	15849 15850
(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.	15851 15852 15853
(5) "Applicable vocational education weight" means:	15854
(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;	15855 15856 15857
(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.	15858 15859 15860

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the DPIA student count" of a school district if the student is entitled to attend school in the district and:

(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.

(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.

(8) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0212, 3317.0213, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), and (M) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring 15891
both of the following: 15892

(1) The board of education of each city, exempted village, 15893
and local school district to annually report the number of 15894
students entitled to attend school in the district who are 15895
enrolled in grades one through twelve in a community school 15896
established under this chapter, the number of students entitled to 15897
attend school in the district who are enrolled in kindergarten in 15898
a community school, the number of those kindergartners who are 15899
enrolled in all-day kindergarten in their community school, and 15900
for each child, the community school in which the child is 15901
enrolled. 15902

(2) The governing authority of each community school 15903
established under this chapter to annually report all of the 15904
following: 15905

(a) The number of students enrolled in grades one through 15906
twelve and the number of students enrolled in kindergarten in the 15907
school who are not receiving special education and related 15908
services pursuant to an IEP; 15909

(b) The number of enrolled students in grades one through 15910
twelve and the number of enrolled students in kindergarten, who 15911
are receiving special education and related services pursuant to 15912
an IEP; 15913

(c) The number of students reported under division (B)(2)(b) 15914
of this section receiving special education and related services 15915
pursuant to an IEP for a handicap described in each of divisions 15916
(A) to (F) of section 3317.013 of the Revised Code; 15917

(d) The full-time equivalent number of students reported 15918
under divisions (B)(2)(a) and (b) of this section who are enrolled 15919
in vocational education programs or classes described in each of 15920
divisions (A) and (B) of section 3317.014 of the Revised Code that 15921

are provided by the community school; 15922

(e) One-fourth of the number of students reported under 15923
divisions (B)(2)(a) and (b) of this section who are not reported 15924
under division (B)(2)(d) of this section but who are enrolled in 15925
vocational education programs or classes described in each of 15926
divisions (A) and (B) of section 3317.014 of the Revised Code at a 15927
joint vocational school district under a contract between the 15928
community school and the joint vocational school district and are 15929
entitled to attend school in a city, local, or exempted village 15930
school district whose territory is part of the territory of the 15931
joint vocational district; 15932

(f) The number of enrolled preschool handicapped students 15933
receiving special education services in a state-funded unit; 15934

(g) The community school's base formula amount; 15935

(h) For each student, the city, exempted village, or local 15936
school district in which the student is entitled to attend school; 15937

(i) Any DPIA reduction factor that applies to a school year. 15938

(C) From the ~~payments~~ SF-3 payment made to a city, exempted 15939
village, or local school district ~~under Chapter 3317. of the~~ 15940
~~Revised Code~~ and, if necessary, from the payment made to the 15941
district under sections ~~321.14~~ 321.24 and 323.156 of the Revised 15942
Code, the department of education shall annually subtract all the 15943
sum of the following: amounts described in divisions (C)(1) to (5) 15944
of this section. However, the aggregate amount deducted under this 15945
division shall not exceed the sum of the district's SF-3 payment 15946
and its payment under sections 321.24 and 323.156 of the Revised 15947
Code. 15948

(1) An amount equal to the sum of the amounts obtained when, 15949
for each community school where the district's students are 15950
enrolled, the number of the district's students reported under 15951
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 15952

in grades one through twelve, and one-half the number of students 15953
reported under those divisions who are enrolled in kindergarten, 15954
in that community school is multiplied by the base formula amount 15955
of that community school as adjusted by the school district's 15956
cost-of-doing-business factor. 15957

(2) The sum of the amounts calculated under divisions 15958
(C)(2)(a) and (b) of this section: 15959

(a) For each of the district's students reported under 15960
division (B)(2)(c) of this section as enrolled in a community 15961
school in grades one through twelve and receiving special 15962
education and related services pursuant to an IEP for a handicap 15963
described in section 3317.013 of the Revised Code, the product of 15964
the applicable special education weight times the community 15965
school's base formula amount; 15966

(b) For each of the district's students reported under 15967
division (B)(2)(c) of this section as enrolled in kindergarten in 15968
a community school and receiving special education and related 15969
services pursuant to an IEP for a handicap described in section 15970
3317.013 of the Revised Code, one-half of the amount calculated as 15971
prescribed in division (C)(2)(a) of this section. 15972

(3) For each of the district's students reported under 15973
division (B)(2)(d) of this section for whom payment is made under 15974
division (D)(4) of this section, the amount of that payment; 15975

(4) An amount equal to the sum of the amounts obtained when, 15976
for each community school where the district's students are 15977
enrolled, the number of the district's students enrolled in that 15978
community school who are included in the district's DPIA student 15979
count is multiplied by the per pupil amount of disadvantaged pupil 15980
impact aid the school district receives that year pursuant to 15981
division (B) or (C) of section 3317.029 of the Revised Code, as 15982
adjusted by any DPIA reduction factor of that community school. If 15983

the district receives disadvantaged pupil impact aid under 15984
division (B) of that section, the per pupil amount of that aid is 15985
the quotient of the amount the district received under that 15986
division divided by the district's DPIA student count, as defined 15987
in that section. If the district receives disadvantaged pupil 15988
impact aid under division (C) of section 3317.029 of the Revised 15989
Code, the per pupil amount of that aid is the per pupil dollar 15990
amount prescribed for the district in division (C)(1) or (2) of 15991
that section. 15992

(5) An amount equal to the sum of the amounts obtained when, 15993
for each community school where the district's students are 15994
enrolled, the district's per pupil amount of aid received under 15995
division (E) of section 3317.029 of the Revised Code, as adjusted 15996
by any DPIA reduction factor of the community school, is 15997
multiplied by the sum of the following: 15998

(a) The number of the district's students reported under 15999
division (B)(2)(a) of this section who are enrolled in grades one 16000
to three in that community school and who are not receiving 16001
special education and related services pursuant to an IEP; 16002

(b) One-half of the district's students who are enrolled in 16003
all-day or any other kindergarten class in that community school 16004
and who are not receiving special education and related services 16005
pursuant to an IEP; 16006

(c) One-half of the district's students who are enrolled in 16007
all-day kindergarten in that community school and who are not 16008
receiving special education and related services pursuant to an 16009
IEP. 16010

The district's per pupil amount of aid under division (E) of 16011
section 3317.029 of the Revised Code is the quotient of the amount 16012
the district received under that division divided by the 16013
district's kindergarten through third grade ADM, as defined in 16014

that section. 16015

(6) An amount equal to the per pupil state parity aid funding 16016
calculated for the school district under either division (C) or 16017
(D) of section 3317.0217 of the Revised Code multiplied by the sum 16018
of the number of students in grades one through twelve, and 16019
one-half of the number of students in kindergarten, who are 16020
entitled to attend school in the district and are enrolled in a 16021
community school as reported under division (B)(1) of this 16022
section. 16023

(D) The department shall annually pay to a community school 16024
established under this chapter ~~all the sum of the following:~~ 16025
amounts described in divisions (D)(1) to (6) of this section. 16026
However, the sum of the payments to all community schools under 16027
divisions (D)(1), (2), (4), (5), and (6) of this section for the 16028
students entitled to attend school in any particular school 16029
district shall not exceed the sum of that district's SF-3 payment 16030
and its payment under sections 321.24 and 323.156 of the Revised 16031
Code. If the sum of the payments calculated under those divisions 16032
for the students entitled to attend school in a particular school 16033
district exceeds the sum of that district's SF-3 payment and its 16034
payment under sections 321.24 and 323.156 of the Revised Code, the 16035
department shall calculate and apply a proration factor to the 16036
payments to all community schools under those divisions for the 16037
students entitled to attend school in that district. 16038

(1) An amount equal to the sum of the amounts obtained when 16039
the number of students enrolled in grades one through twelve, plus 16040
one-half of the kindergarten students in the school, reported 16041
under divisions (B)(2)(a), (b), and (e) of this section who are 16042
not receiving special education and related services pursuant to 16043
an IEP for a handicap described in section 3317.013 of the Revised 16044
Code is multiplied by the community school's base formula amount, 16045
as adjusted by the cost-of-doing-business factor of the school 16046

district in which the student is entitled to attend school;	16047
(2) The greater of the following:	16048
(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;	16049 16050 16051 16052
(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:	16053 16054
(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:	16055 16056 16057 16058 16059
(the community school's base formula amount	16060
X the cost-of-doing-business factor	16061
of the district where the student	16062
is entitled to attend school) +	16063
(the applicable special education weight X	16064
the community school's base formula amount);	16065
(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.	16066 16067 16068 16069 16070 16071
(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.	16072 16073 16074
(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised	16075 16076 16077

Code, are provided by the community school, and are comparable as 16078
determined by the superintendent of public instruction to school 16079
district vocational education programs and classes eligible for 16080
state weighted funding under section 3317.014 of the Revised Code, 16081
an amount equal to the applicable vocational education weight 16082
times the community school's base formula amount times the 16083
percentage of time the student spends in the vocational education 16084
programs or classes. 16085

(5) An amount equal to the sum of the amounts obtained when, 16086
for each school district where the community school's students are 16087
entitled to attend school, the number of that district's students 16088
enrolled in the community school who are included in the 16089
district's DPIA student count is multiplied by the per pupil 16090
amount of disadvantaged pupil impact aid that school district 16091
receives that year pursuant to division (B) or (C) of section 16092
3317.029 of the Revised Code, as adjusted by any DPIA reduction 16093
factor of the community school. The per pupil amount of aid shall 16094
be determined as described in division (C)(4) of this section. 16095

(6) An amount equal to the sum of the amounts obtained when, 16096
for each school district where the community school's students are 16097
entitled to attend school, the district's per pupil amount of aid 16098
received under division (E) of section 3317.029 of the Revised 16099
Code, as adjusted by any DPIA reduction factor of the community 16100
school, is multiplied by the sum of the following: 16101

(a) The number of the district's students reported under 16102
division (B)(2)(a) of this section who are enrolled in grades one 16103
to three in that community school and who are not receiving 16104
special education and related services pursuant to an IEP; 16105

(b) One-half of the district's students who are enrolled in 16106
all-day or any other kindergarten class in that community school 16107
and who are not receiving special education and related services 16108
pursuant to an IEP; 16109

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to

the student in accordance with the student's individualized 16141
education program. Any legal fees, court costs, or other costs 16142
associated with any cause of action relating to the student may 16143
not be included in the amount. 16144

(F) A community school may apply to the department of 16145
education for preschool handicapped or gifted unit funding the 16146
school would receive if it were a school district. Upon request of 16147
its governing authority, a community school that received unit 16148
funding as a school district-operated school before it became a 16149
community school shall retain any units awarded to it as a school 16150
district-operated school provided the school continues to meet 16151
eligibility standards for the unit. 16152

A community school shall be considered a school district and 16153
its governing authority shall be considered a board of education 16154
for the purpose of applying to any state or federal agency for 16155
grants that a school district may receive under federal or state 16156
law or any appropriations act of the general assembly. The 16157
governing authority of a community school may apply to any private 16158
entity for additional funds. 16159

(G) A board of education sponsoring a community school may 16160
utilize local funds to make enhancement grants to the school or 16161
may agree, either as part of the contract or separately, to 16162
provide any specific services to the community school at no cost 16163
to the school. 16164

(H) A community school may not levy taxes or issue bonds 16165
secured by tax revenues. 16166

(I) No community school shall charge tuition for the 16167
enrollment of any student. 16168

(J)(1)(a) A community school may borrow money to pay any 16169
necessary and actual expenses of the school in anticipation of the 16170
receipt of any portion of the payments to be received by the 16171

school pursuant to division (D) of this section. The school may 16172
issue notes to evidence such borrowing . The proceeds of the notes 16173
shall be used only for the purposes for which the anticipated 16174
receipts may be lawfully expended by the school. 16175

(b) A school may also borrow money for a term not to exceed 16176
fifteen years for the purpose of acquiring facilities. 16177

(2) Except for any amount guaranteed under section 3318.50 of 16178
the Revised Code, the state is not liable for debt incurred by the 16179
governing authority of a community school. 16180

(K) For purposes of determining the number of students for 16181
which divisions (D)(5) and (6) of this section applies in any 16182
school year, a community school may submit to the department of 16183
job and family services, no later than the first day of March, a 16184
list of the students enrolled in the school. For each student on 16185
the list, the community school shall indicate the student's name, 16186
address, and date of birth and the school district where the 16187
student is entitled to attend school. Upon receipt of a list under 16188
this division, the department of job and family services shall 16189
determine, for each school district where one or more students on 16190
the list is entitled to attend school, the number of students 16191
residing in that school district who were included in the 16192
department's report under section 3317.10 of the Revised Code. The 16193
department shall make this determination on the basis of 16194
information readily available to it. Upon making this 16195
determination and no later than ninety days after submission of 16196
the list by the community school, the department shall report to 16197
the state department of education the number of students on the 16198
list who reside in each school district who were included in the 16199
department's report under section 3317.10 of the Revised Code. In 16200
complying with this division, the department of job and family 16201
services shall not report to the state department of education any 16202
personally identifiable information on any student. 16203

(L) The department of education shall adjust the amounts 16204
subtracted and paid under divisions (C) and (D) of this section to 16205
reflect any enrollment of students in community schools for less 16206
than the equivalent of a full school year. The state board of 16207
education within ninety days after ~~the effective date of this~~ 16208
~~amendment~~ April 8, 2003, shall adopt in accordance with Chapter 16209
119. of the Revised Code rules governing the payments to community 16210
schools under this section including initial payments in a school 16211
year and adjustments and reductions made in subsequent periodic 16212
payments to community schools and corresponding deductions from 16213
school district accounts as provided under divisions (C) and (D) 16214
of this section. For purposes of this section: 16215

(1) A student shall be considered enrolled in the community 16216
school for any portion of the school year the student is 16217
participating at a college under Chapter 3365. of the Revised 16218
Code. 16219

(2) A student shall be considered to be enrolled in a 16220
community school during a school year for the period of time 16221
between the date on which the school both has received 16222
documentation of the student's enrollment from a parent and has 16223
commenced participation in learning opportunities as defined in 16224
the contract with the sponsor. For purposes of applying this 16225
division to a community school student, "learning opportunities" 16226
shall be defined in the contract, which shall describe both 16227
classroom-based and non-classroom-based learning opportunities and 16228
shall be in compliance with criteria and documentation 16229
requirements for student participation which shall be established 16230
by the department. Any student's instruction time in 16231
non-classroom-based learning opportunities shall be certified by 16232
an employee of the community school. A student's enrollment shall 16233
be considered to cease on the date on which any of the following 16234
occur: 16235

(a) The community school receives documentation from a parent 16236
terminating enrollment of the student. 16237

(b) The community school is provided documentation of a 16238
student's enrollment in another public or private school. 16239

(c) The community school ceases to offer learning 16240
opportunities to the student pursuant to the terms of the contract 16241
with the sponsor or the operation of any provision of this 16242
chapter. 16243

(3) A student's percentage of full-time equivalency shall be 16244
considered to be the percentage the hours of learning opportunity 16245
offered to that student is of nine hundred and twenty hours. 16246

(M) The department of education shall reduce the amounts paid 16247
under division (D) of this section to reflect payments made to 16248
colleges under division (B) of section 3365.07 of the Revised 16249
Code. 16250

(N)(1) No student shall be considered enrolled in any 16251
internet- or computer-based community school unless ~~the~~ both of 16252
the following conditions are satisfied: 16253

(a) The student possesses or has been provided with all 16254
required hardware and software materials and all such materials 16255
are fully operational and the so that the student is capable of 16256
fully participating in the learning opportunities specified in the 16257
contract between the school and the school's sponsor as required 16258
by division (A)(23) of section 3314.03 of the Revised Code; 16259

(b) The school is in compliance with division (A)(1) or (2) 16260
of section 3314.032 of the Revised Code, relative to such student. 16261
~~In~~ 16262

(2) In accordance with policies adopted jointly by the 16263
superintendent of public instruction and the auditor of state, the 16264
department shall reduce the amounts otherwise payable under 16265

division (D) of this section to any internet- or computer-based 16266
community school that includes in its program the provision of 16267
computer hardware and software materials to each student, if such 16268
hardware and software materials have not been delivered, 16269
installed, and activated for all students in a timely manner or 16270
other educational materials or services have not been provided 16271
according to the contract between the individual community school 16272
and its sponsor. 16273

The superintendent of public instruction and the auditor of 16274
state shall jointly establish a method for auditing any community 16275
school to which this division pertains to ensure compliance with 16276
this section. 16277

The superintendent, auditor of state, and the governor shall 16278
jointly make recommendations to the general assembly for 16279
legislative changes that may be required to assure fiscal and 16280
academic accountability for such internet- or computer-based 16281
schools. 16282

(O)(1) If the department determines that a review of a 16283
community school's enrollment is necessary, such review shall be 16284
completed and written notice of the findings shall be provided to 16285
the governing authority of the community school and its sponsor 16286
within ninety days of the end of the community school's fiscal 16287
year, unless extended for a period not to exceed thirty additional 16288
days for one of the following reasons: 16289

(a) The department and the community school mutually agree to 16290
the extension. 16291

(b) Delays in data submission caused by either a community 16292
school or its sponsor. 16293

(2) If the review results in a finding that additional 16294
funding is owed to the school, such payment shall be made within 16295
thirty days of the written notice. If the review results in a 16296

finding that the community school owes moneys to the state, the 16297
following procedure shall apply: 16298

(a) Within ten business days of the receipt of the notice of 16299
findings, the community school may appeal the department's 16300
determination to the state board of education or its designee. 16301

(b) The board or its designee shall conduct an informal 16302
hearing on the matter within thirty days of receipt of such an 16303
appeal and shall issue a decision within fifteen days of the 16304
conclusion of the hearing. 16305

(c) If the board has enlisted a designee to conduct the 16306
hearing, the designee shall certify its decision to the board. The 16307
board may accept the decision of the designee or may reject the 16308
decision of the designee and issue its own decision on the matter. 16309

(d) Any decision made by the board under this division is 16310
final. 16311

(3) If it is decided that the community school owes moneys to 16312
the state, the department shall deduct such amount from the 16313
school's future payments in accordance with guidelines issued by 16314
the superintendent of public instruction. 16315

Sec. 3314.083. If the department of education pays a joint 16316
vocational school district under division (G)(4) of section 16317
3317.16 of the Revised Code for excess costs of providing special 16318
education and related services to a handicapped student who is 16319
enrolled in a community school, as calculated under division 16320
(G)(2) of that section, the department shall deduct the amount of 16321
that payment from the amount calculated for payment to the 16322
community school under section 3314.08 of the Revised Code. 16323

Sec. 3316.08. During a school district's fiscal emergency 16324
period, the auditor of state shall determine annually, or at any 16325
other time upon request of the financial planning and supervision 16326

commission, whether the school district will incur an operating 16327
deficit. If the auditor of state determines that a school district 16328
will incur an operating deficit, the auditor of state shall 16329
certify that determination to the superintendent of public 16330
instruction, the financial planning and supervision commission, 16331
and the board of education of the school district. Upon receiving 16332
the auditor of state's certification, the board of education ~~or~~ 16333
and the commission each shall ~~adopt~~ consider adopting a resolution 16334
to submit a ballot question proposing the levy of a tax under 16335
section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code. 16336
After the board of education and the commission consider adopting 16337
a resolution for the levy of such a tax, the board of education 16338
and commission each shall adopt a resolution that explains the 16339
decision to propose or not propose such a levy. Except as 16340
otherwise provided in this division, the tax shall be levied in 16341
the manner prescribed for a tax levied under section 5705.194 or 16342
5705.21 or under Chapter 5748. of the Revised Code. ~~The~~ If the 16343
board of education or commission decides that a tax shall should 16344
be levied, the tax shall be levied for the purpose of paying 16345
current operating expenses of the school district. The question 16346
shall propose that the tax be levied at ~~the~~ a rate required to 16347
~~produce annual revenue sufficient to eliminate the operating~~ 16348
~~deficit as certified by the auditor of state and to repay~~ 16349
~~outstanding loans or other obligations incurred by the board of~~ 16350
~~education for the purpose of reducing or eliminating operating~~ 16351
~~deficits~~ generate an amount that would produce a positive fiscal 16352
year end cash balance not later than the fifth year of the 16353
district's current five-year forecast submitted under section 16354
5705.391 of the Revised Code, as determined by the financial 16355
planning and supervision commission in consultation with the 16356
district treasurer. The rate of a tax levied under section 16357
5705.194 or 5705.21 of the Revised Code shall be determined by the 16358
county auditor, and the rate of a tax levied under section 5748.02 16359

or 5748.08 of the Revised Code shall be determined by the tax 16360
commissioner, upon the request of the commission. The commission 16361
shall determine the election at which the question of the tax 16362
shall appear on the ballot, and the board of education or 16363
commission shall submit a copy of its resolution to the board of 16364
elections not later than seventy-five days prior to the day of 16365
that election. The board of elections conducting the election 16366
shall certify the results of the election to the board of 16367
education and to the financial planning and supervision 16368
commission. 16369

Sec. 3317.01. As used in this section and section 3317.011 of 16370
the Revised Code, "school district," unless otherwise specified, 16371
means any city, local, exempted village, joint vocational, or 16372
cooperative education school district and any educational service 16373
center. 16374

This chapter shall be administered by the state board of 16375
education. The superintendent of public instruction shall 16376
calculate the amounts payable to each school district and shall 16377
certify the amounts payable to each eligible district to the 16378
treasurer of the district as provided by this chapter. No moneys 16379
shall be distributed pursuant to this chapter without the approval 16380
of the controlling board. 16381

The state board of education shall, in accordance with 16382
appropriations made by the general assembly, meet the financial 16383
obligations of this chapter. 16384

Annually, the department of education shall calculate and 16385
report to each school district the district's total state and 16386
local funds for providing an adequate basic education to the 16387
district's nonhandicapped students, utilizing the determination in 16388
section 3317.012 of the Revised Code. In addition, the department 16389
shall calculate and report separately for each school district the 16390

district's total state and local funds for providing an adequate 16391
education for its handicapped students, utilizing the 16392
determinations in both sections 3317.012 and 3317.013 of the 16393
Revised Code. 16394

Not later than the thirty-first day of August of each fiscal 16395
year, the department of education shall provide to each school 16396
district and county MR/DD board a preliminary estimate of the 16397
amount of funding that the department calculates the district will 16398
receive under each of divisions (C)(1) and (4) of section 3317.022 16399
of the Revised Code. No later than the first day of December of 16400
each fiscal year, the department shall update that preliminary 16401
estimate. 16402

Moneys distributed pursuant to this chapter shall be 16403
calculated and paid on a fiscal year basis, beginning with the 16404
first day of July and extending through the thirtieth day of June. 16405
The moneys appropriated for each fiscal year shall be distributed 16406
at least monthly to each school district unless otherwise provided 16407
for. The state board shall submit a yearly distribution plan to 16408
the controlling board at its first meeting in July. The state 16409
board shall submit any proposed midyear revision of the plan to 16410
the controlling board in January. Any year-end revision of the 16411
plan shall be submitted to the controlling board in June. If 16412
moneys appropriated for each fiscal year are distributed other 16413
than monthly, such distribution shall be on the same basis for 16414
each school district. 16415

The total amounts paid each month shall constitute, as nearly 16416
as possible, one-twelfth of the total amount payable for the 16417
entire year. Monthly payments of the district's base cost funding 16418
shall be made by dividing by twelve the amount calculated using 16419
the average daily attendance appropriate for that month under 16420
division (A)(1) of section 3317.022, division (B) of section 16421
3317.16, or division (C) of section 3317.0217 of the Revised Code, 16422

as applicable. Payments made during the first six months of the 16423
fiscal year may be based on an estimate of the amounts payable for 16424
the entire year. Payments made in the last six months shall be 16425
based on the final calculation of the amounts payable to each 16426
school district for that fiscal year. Payments made in the last 16427
six months may be adjusted, if necessary, to correct the amounts 16428
distributed in the first six months, and to reflect enrollment 16429
increases when such are at least three per cent. Except as 16430
otherwise provided, payments under this chapter shall be made only 16431
to those school districts in which: 16432

(A) The school district, except for any educational service 16433
center and any joint vocational or cooperative education school 16434
district, levies for current operating expenses at least twenty 16435
mills. Levies for joint vocational or cooperative education school 16436
districts or county school financing districts, limited to or to 16437
the extent apportioned to current expenses, shall be included in 16438
this qualification requirement. School district income tax levies 16439
under Chapter 5748. of the Revised Code, limited to or to the 16440
extent apportioned to current operating expenses, shall be 16441
included in this qualification requirement to the extent 16442
determined by the tax commissioner under division (D) of section 16443
3317.021 of the Revised Code. 16444

(B) The school year next preceding the fiscal year for which 16445
such payments are authorized meets the requirement of section 16446
3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the 16447
minimum number of days or hours school must be open for 16448
instruction with pupils in attendance, for individualized 16449
parent-teacher conference and reporting periods, and for 16450
professional meetings of teachers. ~~This requirement shall be~~ 16451
~~waived by the superintendent of public instruction if it had been~~ 16452
~~necessary for a school to be closed because of disease epidemic,~~ 16453
~~hazardous weather conditions, inoperability of school buses or~~ 16454

~~other equipment necessary to the school's operation, damage to a 16455
school building, or other temporary circumstances due to utility 16456
failure rendering the school building unfit for school use, 16457
provided that for those school districts operating pursuant to 16458
section 3313.48 of the Revised Code the number of days the school 16459
was actually open for instruction with pupils in attendance and 16460
for individualized parent teacher conference and reporting periods 16461
is not less than one hundred seventy five, or for those school 16462
districts operating on a trimester plan the number of days the 16463
school was actually open for instruction with pupils in attendance 16464
not less than seventy nine days in any trimester, for those school 16465
districts operating on a quarterly plan the number of days the 16466
school was actually open for instruction with pupils in attendance 16467
not less than fifty nine days in any quarter, or for those school 16468
districts operating on a pentamester plan the number of days the 16469
school was actually open for instruction with pupils in attendance 16470
not less than forty four days in any pentamester. 16471~~

A school district shall not be considered to have failed to 16472
comply with this division ~~or section 3313.481~~ of the Revised Code 16473
because schools were open for instruction but either twelfth grade 16474
students were excused from attendance for up to ~~three days~~ sixteen 16475
and one-half hours or only a portion of the kindergarten students 16476
were in attendance for up to ~~three days~~ fifteen hours in order to 16477
allow for the gradual orientation to school of such students. 16478

~~The superintendent of public instruction shall waive the 16479
requirements of this section with reference to the minimum number 16480
of days or hours school must be in session with pupils in 16481
attendance for the school year succeeding the school year in which 16482
a board of education initiates a plan of operation pursuant to 16483
section 3313.481 of the Revised Code. The minimum requirements of 16484
this section shall again be applicable to such a district 16485
beginning with the school year commencing the second July 16486~~

~~succeeding the initiation of one such plan, and for each school
year thereafter.~~ 16487
16488

~~A school district shall not be considered to have failed to
comply with this division or section 3313.48 or 3313.481 of the
Revised Code because schools were open for instruction but the
length of the regularly scheduled school day, for any number of
days during the school year, was reduced by not more than two
hours due to hazardous weather conditions.~~ 16489
16490
16491
16492
16493
16494

(C) The school district has on file, and is paying in 16495
accordance with, a teachers' salary schedule which complies with 16496
section 3317.13 of the Revised Code. 16497

A board of education or governing board of an educational 16498
service center which has not conformed with other law and the 16499
rules pursuant thereto, shall not participate in the distribution 16500
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 16501
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 16502
and sufficient reason established to the satisfaction of the state 16503
board of education and the state controlling board. 16504

All funds allocated to school districts under this chapter, 16505
except those specifically allocated for other purposes, shall be 16506
used to pay current operating expenses only. 16507

Sec. 3317.012. (A)(1) The general assembly, having analyzed 16508
school district expenditure and cost data for fiscal year 1999, 16509
performed the calculation described in division (B) of this 16510
section, adjusted the results for inflation, and added the amounts 16511
described in division (A)(2) of this section, hereby determines 16512
that the base cost of an adequate education per pupil for the 16513
fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ three 16514
following fiscal years, the base cost per pupil for each of those 16515
years, reflecting an annual rate of inflation of two and 16516
eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088 for 16517

fiscal year 2004, and \$5,230 for fiscal year 2005, ~~\$5,376 for~~ 16518
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 16519

(2) The base cost per pupil amounts specified in division 16520
(A)(1) of this section include amounts to reflect the cost to 16521
school districts of increasing the minimum number of high school 16522
academic units required for graduation beginning September 15, 16523
2001, under section 3313.603 of the Revised Code. Analysis of 16524
fiscal year 1999 data revealed that the school districts meeting 16525
the requirements of division (B) of this section on average 16526
required high school students to complete a minimum of nineteen 16527
and eight-tenths units to graduate. The general assembly 16528
determines that the cost of funding the additional two-tenths unit 16529
required by section 3313.603 of the Revised Code is \$12 per pupil 16530
in fiscal year 2002. This amount was added after the calculation 16531
described in division (B) of this section and the adjustment for 16532
inflation from fiscal year 1999 to fiscal year 2002. It is this 16533
total amount, the calculated base cost plus the supplement to pay 16534
for the additional partial unit, that constitutes the base cost 16535
amount specified in division (A)(1) of this section for fiscal 16536
year 2002 and that is inflated to produce the base cost amounts 16537
for fiscal years 2003 through ~~2007~~ 2005. 16538

(B) In determining the base cost stated in division (A) of 16539
this section, capital and debt costs, costs paid for by federal 16540
funds, and costs covered by funds provided for disadvantaged pupil 16541
impact aid and transportation were excluded, as were the effects 16542
on the districts' state funds of the application of the 16543
cost-of-doing-business factors, assuming a seven and one-half per 16544
cent variance. 16545

The base cost for fiscal year 1999 was calculated as the 16546
unweighted average cost per student, on a school district basis, 16547
of educating students who were not receiving vocational education 16548
or services pursuant to Chapter 3323. of the Revised Code and who 16549

were enrolled in a city, exempted village, or local school 16550
district that in fiscal year 1999 met all of the following 16551
criteria: 16552

(1) The district met at least twenty of the following 16553
twenty-seven performance indicators: 16554

(a) A ninety per cent or higher graduation rate; 16555

(b) At least seventy-five per cent of fourth graders 16556
proficient on the mathematics test prescribed under former 16557
division (A)(1) of section 3301.0710 of the Revised Code; 16558

(c) At least seventy-five per cent of fourth graders 16559
proficient on the reading test prescribed under former division 16560
(A)(1) of section 3301.0710 of the Revised Code; 16561

(d) At least seventy-five per cent of fourth graders 16562
proficient on the writing test prescribed under former division 16563
(A)(1) of section 3301.0710 of the Revised Code; 16564

(e) At least seventy-five per cent of fourth graders 16565
proficient on the citizenship test prescribed under former 16566
division (A)(1) of section 3301.0710 of the Revised Code; 16567

(f) At least seventy-five per cent of fourth graders 16568
proficient on the science test prescribed under former division 16569
(A)(1) of section 3301.0710 of the Revised Code; 16570

(g) At least seventy-five per cent of sixth graders 16571
proficient on the mathematics test prescribed under former 16572
division (A)(2) of section 3301.0710 of the Revised Code; 16573

(h) At least seventy-five per cent of sixth graders 16574
proficient on the reading test prescribed under former division 16575
(A)(2) of section 3301.0710 of the Revised Code; 16576

(i) At least seventy-five per cent of sixth graders 16577
proficient on the writing test prescribed under former division 16578
(A)(2) of section 3301.0710 of the Revised Code; 16579

(j) At least seventy-five per cent of sixth graders	16580
proficient on the citizenship test prescribed under <u>former</u>	16581
division (A)(2) of section 3301.0710 of the Revised Code;	16582
(k) At least seventy-five per cent of sixth graders	16583
proficient on the science test prescribed under <u>former</u> division	16584
(A)(2) of section 3301.0710 of the Revised Code;	16585
(l) At least seventy-five per cent of ninth graders	16586
proficient on the mathematics test prescribed under Section 4 of	16587
Am. Sub. S.B. 55 of the 122nd general assembly;	16588
(m) At least seventy-five per cent of ninth graders	16589
proficient on the reading test prescribed under Section 4 of Am.	16590
Sub. S.B. 55 of the 122nd general assembly;	16591
(n) At least seventy-five per cent of ninth graders	16592
proficient on the writing test prescribed under Section 4 of Am.	16593
Sub. S.B. 55 of the 122nd general assembly;	16594
(o) At least seventy-five per cent of ninth graders	16595
proficient on the citizenship test prescribed under Section 4 of	16596
Am. Sub. S.B. 55 of the 122nd general assembly;	16597
(p) At least seventy-five per cent of ninth graders	16598
proficient on the science test prescribed under Section 4 of Am.	16599
Sub. S.B. 55 of the 122nd general assembly;	16600
(q) At least eighty-five per cent of tenth graders proficient	16601
on the mathematics test prescribed under Section 4 of Am. Sub.	16602
S.B. 55 of the 122nd general assembly;	16603
(r) At least eighty-five per cent of tenth graders proficient	16604
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	16605
of the 122nd general assembly;	16606
(s) At least eighty-five per cent of tenth graders proficient	16607
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	16608
of the 122nd general assembly;	16609

(t) At least eighty-five per cent of tenth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(u) At least eighty-five per cent of tenth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(v) At least sixty per cent of twelfth graders proficient on the mathematics test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(w) At least sixty per cent of twelfth graders proficient on the reading test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(x) At least sixty per cent of twelfth graders proficient on the writing test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(y) At least sixty per cent of twelfth graders proficient on the citizenship test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code.

In determining whether a school district met any of the performance standards specified in divisions (B)(1)(a) to (aa) of this section, the general assembly used a rounding procedure previously recommended by the department of education. It is the same rounding procedure the general assembly used in 1998 to determine whether a district had met the standards of former divisions (B)(1)(a) to (r) of this section for purposes of

constructing the previous model based on fiscal year 1996 data. 16640

(2) The district was not among the five per cent of all 16641
districts with the highest income, nor among the five per cent of 16642
all districts with the lowest income. 16643

(3) The district was not among the five per cent of all 16644
districts with the highest valuation per pupil, nor among the five 16645
per cent of all districts with the lowest valuation per pupil. 16646

This model for calculating the base cost of an adequate 16647
education is expenditure-based. The general assembly recognizes 16648
that increases in state funding to school districts since fiscal 16649
year 1996, the fiscal year upon which the general assembly based 16650
its model for calculating state funding to school districts for 16651
fiscal years 1999 through 2001, has increased school district base 16652
cost expenditures for fiscal year 1999, the fiscal year upon which 16653
the general assembly based its model for calculating state funding 16654
for fiscal years 2002 through ~~2007~~ 2005. In the case of school 16655
districts included in the fiscal year 1999 model that also had met 16656
the fiscal year 1996 performance criteria of former division 16657
(B)(1) of this section, the increased state funding may have 16658
driven the districts' expenditures beyond the expenditures that 16659
were actually needed to maintain their educational programs at the 16660
level necessary to maintain their ability to meet the fiscal year 16661
1999 performance criteria of current division (B)(1) of this 16662
section. The general assembly has determined to control for this 16663
effect by stipulating in the later model that the fiscal year 1999 16664
base cost expenditures of the districts that also met the 16665
performance criteria of former division (B)(1) of this section 16666
equals their base cost expenditures per pupil for fiscal year 16667
1996, inflated to fiscal year 1999 using an annual rate of 16668
inflation of two and eight-tenths per cent. However, if this 16669
inflated amount exceeded the district's actual fiscal year 1999 16670
base cost expenditures per pupil, the district's actual fiscal 16671

year 1999 base cost expenditures per pupil were used in the 16672
calculation. For districts in the 1999 model that did not also 16673
meet the performance criteria of former division (B)(1) of this 16674
section, the actual 1999 base cost per pupil expenditures were 16675
used in the calculation of the average district per pupil costs of 16676
the model districts. 16677

~~(C) In July of 2005, and in July of every six years 16678
thereafter, the speaker of the house of representatives and the 16679
president of the senate shall each appoint three members to a 16680
committee to reexamine the cost of an adequate education. No more 16681
than two members from any political party shall represent each 16682
house. The director of budget and management and the 16683
superintendent of public instruction shall serve as nonvoting ex 16684
officio members of the committee. 16685~~

~~The committee shall select a rational methodology for 16686
calculating the costs of an adequate education system for the 16687
ensuing six year period, and shall report the methodology and the 16688
resulting costs to the general assembly. In performing its 16689
function, the committee is not bound by any method used by 16690
previous general assemblies to examine and calculate costs and 16691
instead may utilize any rational method it deems suitable and 16692
reasonable given the educational needs and requirements of the 16693
state at that time. 16694~~

~~The methodology for determining the cost of an adequate 16695
education system shall take into account the basic educational 16696
costs that all districts incur in educating regular students, the 16697
unique needs of special categories of students, and significant 16698
special conditions encountered by certain classifications of 16699
school districts. 16700~~

~~The committee also shall redetermine, for purposes of 16701
updating the parity aid calculation under section 3317.0217 of the 16702
Revised Code, the average number of effective operating mills that 16703~~

~~school districts in the seventieth to ninetieth percentiles of 16704
valuations per pupil collect above the revenues required to 16705
finance their attributed local shares of the calculated cost of an 16706
adequate education. 16707~~

~~Any committee appointed pursuant to this section shall make 16708
its report to the office of budget and management and the general 16709
assembly within one year of its appointment so that the 16710
information is available for use by the office and the general 16711
assembly in preparing the next biennial appropriations act. 16712~~

~~(D)(1) For purposes of this division, an "update year" is the 16713
first fiscal year for which the per pupil base cost of an adequate 16714
education is in effect after being recalculated by the general 16715
assembly. The first update year is fiscal year 2002. The second 16716
update year is fiscal year 2008. 16717~~

~~(2) The general assembly shall recalculate the per pupil base 16718
cost of an adequate education every six years after considering 16719
the recommendations of the committee appointed under division (C) 16720
of this section. At the time of the recalculation, for each of the 16721
five fiscal years following the update year, the general assembly 16722
shall adjust the base cost recalculated for the update year using 16723
an annual rate of inflation that the general assembly determines 16724
appropriate. 16725~~

~~(3) The general assembly shall include, in the act 16726
appropriating state funds for education programs for a fiscal 16727
biennium that begins with an update year, a statement of its 16728
determination of the total state share percentage of base cost and 16729
parity aid funding for the update year. 16730~~

~~(4) During its biennial budget deliberations, the general 16731
assembly shall determine the total state share percentage of base 16732
cost and parity aid funding for each fiscal year of the upcoming 16733
biennium. This determination shall be based on the latest 16734~~

~~projections and data provided by the department of education under 16735
division (D)(6) of this section prior to the enactment of 16736
education appropriations for the upcoming biennium. If, based on 16737
those latest projections and data, the general assembly determines 16738
that the total state share percentage for either or both nonupdate 16739
fiscal years varies more than two and one half percentage points 16740
more or less than the total state share percentage for the most 16741
recent update year, as previously stated by the general assembly 16742
under division (D)(3) of this section, the general assembly shall 16743
determine and enact a method that it considers appropriate to 16744
restrict the estimated variance for each year to within two and 16745
one half percentage points. The general assembly's methods may 16746
include, but are not required to include and need not be limited 16747
to, reexamining the rate of millage charged off as the local share 16748
of base cost funding under divisions (A)(1) and (2) of section 16749
3317.022 of the Revised Code. Regardless of any changes in 16750
charge off millage rates in years between update years, however, 16751
the charge off millage rate for update years shall be twenty three 16752
mills, unless the general assembly determines that a different 16753
millage rate is more appropriate to share the total calculated 16754
base cost between the state and school districts. 16755~~

~~(5) The total state share percentage of base cost and parity 16756
aid funding for any fiscal year is calculated as follows: 16757~~

~~{(Total state base cost + total state parity aid funding) — 16758
statewide charge off amount} / (Total state base cost + total 16759
state parity aid funding) 16760~~

~~Where: 16761~~

~~(a) The total state base cost equals the sum of the base 16762
costs for all school districts for the fiscal year. 16763~~

~~(b) The base cost for each school district equals: 16764~~

~~formula amount X cost of doing business factor X 16765~~

~~the greater of formula ADM or 16766~~

~~three year average formula ADM~~ 16767

~~(c) The total state parity aid funding equals the sum of the~~ 16768
~~amounts paid to all school districts for the fiscal year under~~ 16769
~~section 3317.0217 of the Revised Code.~~ 16770

~~(d) The statewide charge off amount equals the sum of the~~ 16771
~~charge off amounts for all school districts.~~ 16772

~~(e) The charge off amount for each school district is the~~ 16773
~~amount calculated as its local share of base cost funding and~~ 16774
~~deducted from the total calculated base cost to determine the~~ 16775
~~amount of its state payment under divisions (A)(1) and (2) of~~ 16776
~~section 3317.022 of the Revised Code. The charge off amount for~~ 16777
~~each school district in fiscal year 2002 is the product of~~ 16778
~~twenty three mills multiplied by the district's recognized~~ 16779
~~valuation as adjusted, if applicable, under division (A)(2) of~~ 16780
~~section 3317.022 of the Revised Code. If however, in any fiscal~~ 16781
~~year, including fiscal year 2002, a school district's calculated~~ 16782
~~charge off amount exceeds its base cost calculated as described in~~ 16783
~~division (D)(5)(b) of this section, the district's charge off~~ 16784
~~amount shall be deemed to equal its calculated base cost.~~ 16785

~~(6) Whenever requested by the chairperson of the standing~~ 16786
~~committee of the house or representatives or the senate having~~ 16787
~~primary jurisdiction over appropriations, the legislative budget~~ 16788
~~officer, or the director of budget and management, the department~~ 16789
~~of education shall report its latest projections for total base~~ 16790
~~cost, total parity aid funding, and the statewide charge off~~ 16791
~~amount, as those terms are defined in division (D)(5) of this~~ 16792
~~section, for each year of the upcoming fiscal biennium, and all~~ 16793
~~data it used to make the projections.~~ 16794

Sec. 3317.013. This section does not apply to handicapped 16795
preschool students. 16796

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor;

(C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of 2.3646 for students identified as orthopedically handicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code or other health handicapped - major;

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(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.

In fiscal year ~~2002~~ 2004, the multiples specified in 16827
divisions (A) to (F) of this section shall be adjusted by 16828
multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the 16829
multiples specified in those divisions shall be adjusted by 16830
multiplying them by ~~0.875~~ 0.90. 16831

Not later than May 30, 2004, and May 30, 2005, the department 16832
shall submit to the office of budget and management a report that 16833
specifies for each city, local, exempted village, and joint 16834
vocational school district the fiscal year allocation of the state 16835
and local shares of special education and related services 16836
additional weighted funding and federal special education funds 16837
passed through to the district. 16838

Sec. 3317.02. As used in this chapter: 16839

(A) Unless otherwise specified, "school district" means city, 16840
local, and exempted village school districts. 16841

(B) "Formula amount" means the base cost for the fiscal year 16842
specified in section 3317.012 of the Revised Code. 16843

(C) "FTE basis" means a count of students based on full-time 16844
equivalency, in accordance with rules adopted by the department of 16845
education pursuant to section 3317.03 of the Revised Code. In 16846
adopting its rules under this division, the department shall 16847
provide for counting any student in category one, two, three, 16848
four, five, or six special education ADM or in category one or two 16849
vocational education ADM in the same proportion the student is 16850
counted in formula ADM or average daily attendance. 16851

(D)(1) "Formula ADM" means, for a city, local, or exempted 16852
village school district, the number reported pursuant to division 16853
(A) of section 3317.03 of the Revised Code, and for a joint 16854
vocational school district, the number reported pursuant to 16855
division (D) of that section. 16856

(2) "Three-year average formula ADM" means the average of formula ADMs for the current and preceding two fiscal years. However, as applicable in fiscal years 1999 and 2000, the three-year average for city, local, and exempted village school districts shall be determined utilizing the FY 1997 ADM or FY 1998 ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal years 2000 and 2001, the three-year average for joint vocational school districts shall be determined utilizing the average daily membership reported in fiscal years 1998 and 1999 under division (D) of section 3317.03 of the Revised Code in lieu of formula ADM for fiscal years 1998 and 1999.

~~(E)~~(3) "FY 1997 ADM" or "FY 1998 ADM" means the school district's average daily membership reported for the applicable fiscal year under the version of division (A) of section 3317.03 of the Revised Code in effect during that fiscal year, adjusted as follows:

~~(1)~~(a) Minus the average daily membership of handicapped preschool children;

~~(2)~~(b) Minus one-half of the average daily membership attending kindergarten;

~~(3)~~(c) Minus three-fourths of the average daily membership attending a joint vocational school district;

~~(4)~~(d) Plus the average daily membership entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district but receiving educational services in approved units from an educational service center or another school district under a compact or a cooperative education agreement, as determined by the department;

~~(5)~~(e) Minus the average daily membership receiving educational services from the district in approved units but entitled under section 3313.64 or 3313.65 of the Revised Code to

attend school in another school district, as determined by the 16888
department. 16889

(E) "Average daily attendance" means the average daily 16890
attendance reported for the prior month under section 3317.034 of 16891
the Revised Code. For purposes of calculating payments under 16892
division (A)(1) of section 3317.022, division (B) of section 16893
3317.16, and section 3317.0217 of the Revised Code in July, 16894
August, and September, the department of education shall use the 16895
average daily attendance reported for the prior May. 16896

(F)(1) "Category one special education ADM" means the average 16897
daily membership of handicapped children receiving special 16898
education services for the handicap specified in division (A) of 16899
section 3317.013 of the Revised Code and reported under division 16900
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 16901

(2) "Category two special education ADM" means the average 16902
daily membership of handicapped children receiving special 16903
education services for those handicaps specified in division (B) 16904
of section 3317.013 of the Revised Code and reported under 16905
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 16906
Code. 16907

(3) "Category three special education ADM" means the average 16908
daily membership of students receiving special education services 16909
for those handicaps specified in division (C) of section 3317.013 16910
of the Revised Code, and reported under division (B)(7) or 16911
(D)(2)(d) of section 3317.03 of the Revised Code. 16912

(4) "Category four special education ADM" means the average 16913
daily membership of students receiving special education services 16914
for those handicaps specified in division (D) of section 3317.013 16915
of the Revised Code and reported under division (B)(8) or 16916
(D)(2)(e) of section 3317.03 of the Revised Code. 16917

(5) "Category five special education ADM" means the average 16918

daily membership of students receiving special education services 16919
for the handicap specified in division (E) of section 3317.013 of 16920
the Revised Code and reported under division (B)(9) or (D)(2)(f) 16921
of section 3317.03 of the Revised Code. 16922

(6) "Category six special education ADM" means the average 16923
daily membership of students receiving special education services 16924
for the handicap specified in division (F) of section 3317.013 of 16925
the Revised Code and reported under division (B)(10) or (D)(2)(g) 16926
of section 3317.03 of the Revised Code. 16927

(7) "Category one vocational education ADM" means the average 16928
daily membership of students receiving vocational education 16929
services described in division (A) of section 3317.014 of the 16930
Revised Code and reported under division (B)(11) or (D)(2)(h) of 16931
section 3317.03 of the Revised Code. 16932

(8) "Category two vocational education ADM" means the average 16933
daily membership of students receiving vocational education 16934
services described in division (B) of section 3317.014 of the 16935
Revised Code and reported under division (B)(12) or (D)(2)(i) of 16936
section 3317.03 of the Revised Code. 16937

(G) "Handicapped preschool child" means a handicapped child, 16938
as defined in section 3323.01 of the Revised Code, who is at least 16939
age three but is not of compulsory school age, as defined in 16940
section 3321.01 of the Revised Code, and who is not currently 16941
enrolled in kindergarten. 16942

(H) "County MR/DD board" means a county board of mental 16943
retardation and developmental disabilities. 16944

(I) "Recognized valuation" means the amount calculated for a 16945
school district pursuant to section 3317.015 of the Revised Code. 16946

(J) "Transportation ADM" means the number of children 16947
reported under division (B)(13) of section 3317.03 of the Revised 16948
Code. 16949

(K) "Average efficient transportation use cost per student" 16950
means a statistical representation of transportation costs as 16951
calculated under division (D)(2) of section 3317.022 of the 16952
Revised Code. 16953

(L) "Taxes charged and payable" means the taxes charged and 16954
payable against real and public utility property after making the 16955
reduction required by section 319.301 of the Revised Code, plus 16956
the taxes levied against tangible personal property. 16957

(M) "Total taxable value" means the sum of the amounts 16958
certified for a city, local, exempted village, or joint vocational 16959
school district under divisions (A)(1) and (2) of section 3317.021 16960
of the Revised Code. 16961

(N) "Cost-of-doing-business factor" means the amount 16962
indicated in this division for the county in which a city, local, 16963
exempted village, or joint vocational school district is located. 16964
If a city, local, or exempted village school district is located 16965
in more than one county, the factor is the amount indicated for 16966
the county to which the district is assigned by the state 16967
department of education. If a joint vocational school district is 16968
located in more than one county, the factor is the amount 16969
indicated for the county in which the joint vocational school with 16970
the greatest formula ADM operated by the district is located. 16971

COST-OF-DOING-BUSINESS 16972

COUNTY	FACTOR	AMOUNT	
Adams	1.0061		16973
Allen	1.0236		16974
Ashland	1.0331		16975
Ashtabula	1.0431		16976
Athens	1.0038		16977
Auglaize	1.0272		16978
Belmont	1.0043		16979
Brown	1.0207		16980

Butler	1.0663	16982
Carroll	1.0148	16983
Champaign	1.0413	16984
Clark	1.0443	16985
Clermont	1.0532	16986
Clinton	1.0296	16987
Columbiana	1.0262	16988
Coshocton	1.0200	16989
Crawford	1.0140	16990
Cuyahoga	1.0672	16991
Darke	1.0343	16992
Defiance	1.0165	16993
Delaware	1.0479	16994
Erie	1.0372	16995
Fairfield	1.0354	16996
Fayette	1.0258	16997
Franklin	1.0519	16998
Fulton	1.0361	16999
Gallia	1.0000	17000
Geauga	1.0528	17001
Greene	1.0407	17002
Guernsey	1.0064	17003
Hamilton	1.0750	17004
Hancock	1.0215	17005
Hardin	1.0348	17006
Harrison	1.0081	17007
Henry	1.0338	17008
Highland	1.0129	17009
Hocking	1.0151	17010
Holmes	1.0238	17011
Huron	1.0305	17012
Jackson	1.0118	17013
Jefferson	1.0067	17014

Knox	1.0258	17015
Lake	1.0556	17016
Lawrence	1.0122	17017
Licking	1.0375	17018
Logan	1.0362	17019
Lorain	1.0521	17020
Lucas	1.0406	17021
Madison	1.0437	17022
Mahoning	1.0384	17023
Marion	1.0263	17024
Medina	1.0595	17025
Meigs	1.0018	17026
Mercer	1.0199	17027
Miami	1.0415	17028
Monroe	1.0097	17029
Montgomery	1.0476	17030
Morgan	1.0128	17031
Morrow	1.0276	17032
Muskingum	1.0145	17033
Noble	1.0103	17034
Ottawa	1.0468	17035
Paulding	1.0140	17036
Perry	1.0154	17037
Pickaway	1.0326	17038
Pike	1.0094	17039
Portage	1.0516	17040
Preble	1.0476	17041
Putnam	1.0243	17042
Richland	1.0213	17043
Ross	1.0085	17044
Sandusky	1.0307	17045
Scioto	1.0029	17046
Seneca	1.0223	17047

Shelby	1.0263	17048
Stark	1.0300	17049
Summit	1.0598	17050
Trumbull	1.0381	17051
Tuscarawas	1.0097	17052
Union	1.0446	17053
Van Wert	1.0133	17054
Vinton	1.0070	17055
Warren	1.0659	17056
Washington	1.0075	17057
Wayne	1.0404	17058
Williams	1.0284	17059
Wood	1.0382	17060
Wyandot	1.0188	17061

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(U) A child may be identified as "other health handicapped-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to ~~the effective date of this amendment~~ July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(V) A child may be identified as "other health

handicapped-minor" if the child's condition meets the definition 17109
of "other health impaired" established in rules adopted by the 17110
state board of education prior to ~~the effective date of this~~ 17111
~~amendment~~ July 1, 2001, but the child's condition does not meet 17112
either of the conditions specified in division (U)(1) or (2) of 17113
this section. 17114

Sec. 3317.022. (A)(1) The department of education shall 17115
compute and distribute state base cost funding to each school 17116
district for the fiscal year in accordance with the following 17117
formula, making any adjustment required by division (A)(2) of this 17118
section and using the information obtained under section 3317.021 17119
of the Revised Code in the calendar year in which the fiscal year 17120
begins. 17121

Compute the following for each eligible district: 17122

$$\{(\text{cost-of-doing-business factor X}$$
 17123
the formula amount X ~~(the greater of formula ADM~~ 17124
~~or three-year average formula ADM)} -~~ 17125
average daily attendance - 17126
(.023 X recognized valuation) 17127

If the difference obtained is a negative number, the 17128
district's computation shall be zero. 17129

(2)(a) For each school district for which the tax exempt 17130
value of the district equals or exceeds twenty-five per cent of 17131
the potential value of the district, the department of education 17132
shall calculate the difference between the district's tax exempt 17133
value and twenty-five per cent of the district's potential value. 17134

(b) For each school district to which division (A)(2)(a) of 17135
this section applies, the department shall adjust the recognized 17136
valuation used in the calculation under division (A)(1) of this 17137
section by subtracting from it the amount calculated under 17138
division (A)(2)(a) of this section. 17139

(B) As used in this section:	17140
(1) The "total special education weight" for a district means the sum of the following amounts:	17141 17142
(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;	17143 17144 17145
(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;	17146 17147 17148
(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;	17149 17150 17151
(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;	17152 17153 17154
(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;	17155 17156 17157
(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.	17158 17159 17160
(2) "State share percentage" means the <u>monthly</u> percentage calculated for a district as follows:	17161 17162
(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.	17163 17164 17165 17166 17167
(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the	17168 17169

following:	17170
Cost-of-doing-business factor X	17171
the formula amount X (the greater of formula	17172
ADM or three year average formula ADM)	17173
<u>average daily attendance</u>	17174
The resultant number is the district's state share	17175
percentage.	17176
(3) "Related services" includes:	17177
(a) Child study, special education supervisors and	17178
coordinators, speech and hearing services, adaptive physical	17179
development services, occupational or physical therapy, teacher	17180
assistants for handicapped children whose handicaps are described	17181
in division (B) of section 3317.013 or division (F)(3) of section	17182
3317.02 of the Revised Code, behavioral intervention, interpreter	17183
services, work study, nursing services, and specialized	17184
integrative services as those terms are defined by the department;	17185
(b) Speech and language services provided to any student with	17186
a handicap, including any student whose primary or only handicap	17187
is a speech and language handicap;	17188
(c) Any related service not specifically covered by other	17189
state funds but specified in federal law, including but not	17190
limited to, audiology and school psychological services;	17191
(d) Any service included in units funded under former	17192
division (O)(1) of section 3317.023 of the Revised Code;	17193
(e) Any other related service needed by handicapped children	17194
in accordance with their individualized education plans.	17195
(4) The "total vocational education weight" for a district	17196
means the sum of the following amounts:	17197
(a) The district's category one vocational education ADM	17198
multiplied by the multiple specified in division (A) of section	17199

3317.014 of the Revised Code;	17200
(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.	17201 17202 17203
(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:	17204 17205 17206 17207
The district's state share percentage	17208
X the formula amount for the year	17209
for which the aid is calculated	17210
X the district's total special education weight	17211
(2) The attributed local share of special education and related services additional weighted costs equals:	17212 17213
(1 - the district's state share percentage) X	17214
the district's total special education weight X	17215
the formula amount	17216
(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:	17217 17218 17219 17220 17221 17222 17223 17224 17225 17226 17227 17228
(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;	17229 17230

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 and twenty-five thousand seven hundred dollars in fiscal ~~year~~ years 2003, 2004, and 2005;

(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 and thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 2003, 2004, and 2005.

~~The threshold catastrophic costs for fiscal year 2003 represent a two and eight tenths per cent inflationary increase over fiscal year 2002.~~

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

~~(5)~~(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 2004, and 2005.

(b) For the provision of speech services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall

pay each school district an amount calculated under the following 17261
formula: 17262

(formula ADM divided by 2000) X 17263

the personnel allowance X the state share percentage 17264

(5) In any fiscal year, a school district shall spend for 17265
purposes that the department designates as approved for special 17266
education and related services expenses at least the amount 17267
calculated as follows: 17268

(cost-of-doing-business factor X 17269
formula amount X the sum of categories 17270
one through six special education ADM) + 17271
(total special education weight X formula amount) 17272

The purposes approved by the department for special education 17273
expenses shall include, but shall not be limited to, 17274
identification of handicapped children, compliance with state 17275
rules governing the education of handicapped children and 17276
prescribing the continuum of program options for handicapped 17277
children, and the portion of the school district's overall 17278
administrative and overhead costs that are attributable to the 17279
district's special education student population. 17280

The department shall require school districts to report data 17281
annually to allow for monitoring compliance with division (C)(5) 17282
of this section. The department shall annually report to the 17283
governor and the general assembly the amount of money spent by 17284
each school district for special education and related services. 17285

(D)(1) As used in this division: 17286

(a) "Daily bus miles per student" equals the number of bus 17287
miles traveled per day, divided by transportation base. 17288

(b) "Transportation base" equals total student count as 17289
defined in section 3301.011 of the Revised Code, minus the number 17290
of students enrolled in preschool handicapped units, plus the 17291

number of nonpublic school students included in transportation	17292
ADM.	17293
(c) "Transported student percentage" equals transportation	17294
ADM divided by transportation base.	17295
(d) "Transportation cost per student" equals total operating	17296
costs for board-owned or contractor-operated school buses divided	17297
by transportation base.	17298
(2) Analysis of student transportation cost data has resulted	17299
in a finding that an average efficient transportation use cost per	17300
student can be calculated by means of a regression formula that	17301
has as its two independent variables the number of daily bus miles	17302
per student and the transported student percentage. For fiscal	17303
year 1998 transportation cost data, the average efficient	17304
transportation use cost per student is expressed as follows:	17305
$51.79027 + (139.62626 \times \text{daily bus miles per student}) +$	17306
$(116.25573 \times \text{transported student percentage})$	17307
The department of education shall annually determine the	17308
average efficient transportation use cost per student in	17309
accordance with the principles stated in division (D)(2) of this	17310
section, updating the intercept and regression coefficients of the	17311
regression formula modeled in this division, based on an annual	17312
statewide analysis of each school district's daily bus miles per	17313
student, transported student percentage, and transportation cost	17314
per student data. The department shall conduct the annual update	17315
using data, including daily bus miles per student, transported	17316
student percentage, and transportation cost per student data, from	17317
the prior fiscal year. The department shall notify the office of	17318
budget and management of such update by the fifteenth day of	17319
February of each year.	17320
(3) In addition to funds paid under divisions (A), (C), and	17321
(E) of this section, each district with a transported student	17322

percentage greater than zero shall receive a payment equal to a 17323
percentage of the product of the district's transportation base 17324
from the prior fiscal year times the annually updated average 17325
efficient transportation use cost per student, times an inflation 17326
factor of two and eight tenths per cent to account for the 17327
one-year difference between the data used in updating the formula 17328
and calculating the payment and the year in which the payment is 17329
made. The percentage shall be the following percentage of that 17330
product specified for the corresponding fiscal year: 17331

FISCAL YEAR	PERCENTAGE	
2000	52.5%	17332
2001	55%	17333
2002	57.5%	17334
2003 and thereafter	The greater of 60% or the district's state share percentage	17335 17336

The payments made under division (D)(3) of this section each 17337
year shall be calculated based on all of the same prior year's 17338
data used to update the formula. 17339

(4) In addition to funds paid under divisions (D)(2) and (3) 17340
of this section, a school district shall receive a rough road 17341
subsidy if both of the following apply: 17342

(a) Its county rough road percentage is higher than the 17343
statewide rough road percentage, as those terms are defined in 17344
division (D)(5) of this section; 17345

(b) Its district student density is lower than the statewide 17346
student density, as those terms are defined in that division. 17347

(5) The rough road subsidy paid to each district meeting the 17348
qualifications of division (D)(4) of this section shall be 17349
calculated in accordance with the following formula: 17350

(per rough mile subsidy X total rough road miles) X 17351

density multiplier 17352

where: 17353

(a) "Per rough mile subsidy" equals the amount calculated in 17354
accordance with the following formula: 17355

0.75 - {0.75 X [(maximum rough road percentage - 17356
17357
county rough road percentage)/(maximum rough road percentage - 17358
statewide rough road percentage)]} 17359

(i) "Maximum rough road percentage" means the highest county 17360
rough road percentage in the state. 17361

(ii) "County rough road percentage" equals the percentage of 17362
the mileage of state, municipal, county, and township roads that 17363
is rated by the department of transportation as type A, B, C, E2, 17364
or F in the county in which the school district is located or, if 17365
the district is located in more than one county, the county to 17366
which it is assigned for purposes of determining its 17367
cost-of-doing-business factor. 17368

(iii) "Statewide rough road percentage" means the percentage 17369
of the statewide total mileage of state, municipal, county, and 17370
township roads that is rated as type A, B, C, E2, or F by the 17371
department of transportation. 17372

(b) "Total rough road miles" means a school district's total 17373
bus miles traveled in one year times its county rough road 17374
percentage. 17375

(c) "Density multiplier" means a figure calculated in 17376
accordance with the following formula: 17377

1 - [(minimum student density - district student 17378
density)/(minimum student density - 17379
statewide student density)] 17380

(i) "Minimum student density" means the lowest district 17381

student density in the state. 17382

(ii) "District student density" means a school district's 17383
transportation base divided by the number of square miles in the 17384
district. 17385

(iii) "Statewide student density" means the sum of the 17386
transportation bases for all school districts divided by the sum 17387
of the square miles in all school districts. 17388

(6) In addition to funds paid under divisions (D)(2) to (5) 17389
of this section, each district shall receive in accordance with 17390
rules adopted by the state board of education a payment for 17391
students transported by means other than board-owned or 17392
contractor-operated buses and whose transportation is not funded 17393
under division (J) of section 3317.024 of the Revised Code. The 17394
rules shall include provisions for school district reporting of 17395
such students. 17396

(E)(1) The department shall compute and distribute state 17397
vocational education additional weighted costs funds to each 17398
school district in accordance with the following formula: 17399

state share percentage X 17400
the formula amount X 17401
total vocational education weight 17402

In any fiscal year, a school district receiving funds under 17403
division (E)(1) of this section shall spend those funds only for 17404
the purposes that the department designates as approved for 17405
vocational education expenses. 17406

(2) The department shall compute for each school district 17407
state funds for vocational education associated services in 17408
accordance with the following formula: 17409

state share percentage X .05 X 17410
the formula amount X the sum of categories one and two 17411
vocational education ADM 17412

In any fiscal year, a school district receiving funds under 17413
division (E)(2) of this section, or through a transfer of funds 17414
pursuant to division (L) of section 3317.023 of the Revised Code, 17415
shall spend those funds only for the purposes that the department 17416
designates as approved for vocational education associated 17417
services expenses, which may include such purposes as 17418
apprenticeship coordinators, coordinators for other vocational 17419
education services, vocational evaluation, and other purposes 17420
designated by the department. The department may deny payment 17421
under division (E)(2) of this section to any district that the 17422
department determines is not operating those services or is using 17423
funds paid under division (E)(2) of this section, or through a 17424
transfer of funds pursuant to division (L) of section 3317.023 of 17425
the Revised Code, for other purposes. 17426

(F) Beginning in fiscal year 2003, the actual local share in 17427
any fiscal year for the combination of special education and 17428
related services additional weighted costs funding calculated 17429
under division (C)(1) of this section, transportation funding 17430
calculated under divisions (D)(2) and (3) of this section, and 17431
vocational education and associated services additional weighted 17432
costs funding calculated under divisions (E)(1) and (2) of this 17433
section shall not exceed for any school district the product of 17434
three mills times the district's recognized valuation. Beginning 17435
in fiscal year 2003, the department annually shall pay each school 17436
district as an excess cost supplement any amount by which the sum 17437
of the district's attributed local shares for that funding exceeds 17438
that product. For purposes of calculating the excess cost 17439
supplement: 17440

(1) The attributed local share for special education and 17441
related services additional weighted costs funding is the amount 17442
specified in division (C)(2) of this section. 17443

(2) The attributed local share of transportation funding 17444

equals the difference of the total amount calculated for the 17445
district using the formula developed under division (D)(2) of this 17446
section minus the actual amount paid to the district after 17447
applying the percentage specified in division (D)(3) of this 17448
section. 17449

(3) The attributed local share of vocational education and 17450
associated services additional weighted costs funding is the 17451
amount determined as follows: 17452

(1 - state share percentage) X 17453
[(total vocational education weight X the formula amount) + 17454
the payment under division (E)(2) of this section] 17455

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the 17456
Revised Code, the amounts required to be paid to a district under 17457
this chapter shall be adjusted by the amount of the computations 17458
made under divisions (B) to ~~(L)~~(M) of this section. 17459

As used in this section: 17460

(1) "Classroom teacher" means a licensed employee who 17461
provides direct instruction to pupils, excluding teachers funded 17462
from money paid to the district from federal sources; educational 17463
service personnel; and vocational and special education teachers. 17464

(2) "Educational service personnel" shall not include such 17465
specialists funded from money paid to the district from federal 17466
sources or assigned full-time to vocational or special education 17467
students and classes and may only include those persons employed 17468
in the eight specialist areas in a pattern approved by the 17469
department of education under guidelines established by the state 17470
board of education. 17471

(3) "Annual salary" means the annual base salary stated in 17472
the state minimum salary schedule for the performance of the 17473
teacher's regular teaching duties that the teacher earns for 17474

services rendered for the first full week of October of the fiscal 17475
year for which the adjustment is made under division (C) of this 17476
section. It shall not include any salary payments for supplemental 17477
teachers contracts. 17478

(4) "Regular student population" means the formula ADM plus 17479
the number of students reported as enrolled in the district 17480
pursuant to division (A)(1) of section 3313.981 of the Revised 17481
Code; minus the number of students reported under division (A)(2) 17482
of section 3317.03 of the Revised Code; minus the FTE of students 17483
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 17484
(12) of that section who are enrolled in a vocational education 17485
class or receiving special education; and minus one-fourth of the 17486
students enrolled concurrently in a joint vocational school 17487
district. 17488

(5) "State share percentage" has the same meaning as in 17489
section 3317.022 of the Revised Code. 17490

(6) "VEPD" means a school district or group of school 17491
districts designated by the department of education as being 17492
responsible for the planning for and provision of vocational 17493
education services to students within the district or group. 17494

(7) "Lead district" means a school district, including a 17495
joint vocational school district, designated by the department as 17496
a VEPD, or designated to provide primary vocational education 17497
leadership within a VEPD composed of a group of districts. 17498

(B) If the district employs less than one full-time 17499
equivalent classroom teacher for each twenty-five pupils in the 17500
regular student population in any school district, deduct the sum 17501
of the amounts obtained from the following computations: 17502

(1) Divide the number of the district's full-time equivalent 17503
classroom teachers employed by one twenty-fifth; 17504

(2) Subtract the quotient in (1) from the district's regular 17505

student population; 17506

(3) Multiply the difference in (2) by seven hundred fifty-two 17507
dollars. 17508

(C) If a positive amount, add one-half of the amount obtained 17509
by multiplying the number of full-time equivalent classroom 17510
teachers by: 17511

(1) The mean annual salary of all full-time equivalent 17512
classroom teachers employed by the district at their respective 17513
training and experience levels minus; 17514

(2) The mean annual salary of all such teachers at their 17515
respective levels in all school districts receiving payments under 17516
this section. 17517

The number of full-time equivalent classroom teachers used in 17518
this computation shall not exceed one twenty-fifth of the 17519
district's regular student population. In calculating the 17520
district's mean salary under this division, those full-time 17521
equivalent classroom teachers with the highest training level 17522
shall be counted first, those with the next highest training level 17523
second, and so on, in descending order. Within the respective 17524
training levels, teachers with the highest years of service shall 17525
be counted first, the next highest years of service second, and so 17526
on, in descending order. 17527

(D) This division does not apply to a school district that 17528
has entered into an agreement under division (A) of section 17529
3313.42 of the Revised Code. Deduct the amount obtained from the 17530
following computations if the district employs fewer than five 17531
full-time equivalent educational service personnel, including 17532
elementary school art, music, and physical education teachers, 17533
counselors, librarians, visiting teachers, school social workers, 17534
and school nurses for each one thousand pupils in the regular 17535
student population: 17536

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths; 17537
17538
17539

(2) Subtract the quotient in (1) from the district's regular student population; 17540
17541

(3) Multiply the difference in (2) by ninety-four dollars. 17542

(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code. 17543
17544
17545
17546
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(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (I) of section 3313.64 or section 3317.08 of the Revised Code. 17549
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(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible. 17557
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(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code. 17561
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(H) If the district has received a loan from a commercial 17566

lending institution for which payments are made by the 17567
superintendent of public instruction pursuant to division (E)(3) 17568
of section 3313.483 of the Revised Code, deduct an amount equal to 17569
such payments. 17570

(I)(1) If the district is a party to an agreement entered 17571
into under division (D), (E), or (F) of section 3311.06 or 17572
division (B) of section 3311.24 of the Revised Code and is 17573
obligated to make payments to another district under such an 17574
agreement, deduct an amount equal to such payments if the district 17575
school board notifies the department in writing that it wishes to 17576
have such payments deducted. 17577

(2) If the district is entitled to receive payments from 17578
another district that has notified the department to deduct such 17579
payments under division (I)(1) of this section, add the amount of 17580
such payments. 17581

(J) If the district is required to pay an amount of funds to 17582
a cooperative education district pursuant to a provision described 17583
by division (B)(4) of section 3311.52 or division (B)(8) of 17584
section 3311.521 of the Revised Code, deduct such amounts as 17585
provided under that provision and credit those amounts to the 17586
cooperative education district for payment to the district under 17587
division (B)(1) of section 3317.19 of the Revised Code. 17588

(K)(1) If a district is educating a student entitled to 17589
attend school in another district pursuant to a shared education 17590
contract, compact, or cooperative education agreement other than 17591
an agreement entered into pursuant to section 3313.842 of the 17592
Revised Code, credit to that educating district on an FTE basis 17593
both of the following: 17594

(a) An amount equal to the formula amount times the cost of 17595
doing business factor of the school district where the student is 17596
entitled to attend school pursuant to section 3313.64 or 3313.65 17597

of the Revised Code;	17598
(b) An amount equal to the formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code.	17599 17600 17601
(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.	17602 17603 17604 17605
(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.	17606 17607 17608 17609 17610
(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.	17611 17612 17613 17614 17615
(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.	17616 17617 17618
<u>(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.</u>	17619 17620 17621 17622 17623 17624 17625 17626
Sec. 3317.024. In addition to the moneys paid to eligible	17627

school districts pursuant to section 3317.022 of the Revised Code, 17628
moneys appropriated for the education programs in divisions (A) to 17629
(H), (J) to (L), (O), (P), and (R) of this section shall be 17630
distributed to school districts meeting the requirements of 17631
section 3317.01 of the Revised Code; in the case of divisions (J) 17632
and (P) of this section, to educational service centers as 17633
provided in section 3317.11 of the Revised Code; in the case of 17634
divisions (E), (M), and (N) of this section, to county MR/DD 17635
boards; in the case of division (R) of this section, to joint 17636
vocational school districts; in the case of division (K) of this 17637
section, to cooperative education school districts; and in the 17638
case of division (Q) of this section, to the institutions defined 17639
under section 3317.082 of the Revised Code providing elementary or 17640
secondary education programs to children other than children 17641
receiving special education under section 3323.091 of the Revised 17642
Code. The following shall be distributed monthly, quarterly, or 17643
annually as may be determined by the state board of education: 17644

(A) A per pupil amount to each school district that 17645
establishes a summer school remediation program that complies with 17646
rules of the state board of education. 17647

(B) An amount for each island school district and each joint 17648
state school district for the operation of each high school and 17649
each elementary school maintained within such district and for 17650
capital improvements for such schools. Such amounts shall be 17651
determined on the basis of standards adopted by the state board of 17652
education. 17653

(C) An amount for each school district operating classes for 17654
children of migrant workers who are unable to be in attendance in 17655
an Ohio school during the entire regular school year. The amounts 17656
shall be determined on the basis of standards adopted by the state 17657
board of education, except that payment shall be made only for 17658
subjects regularly offered by the school district providing the 17659

classes. 17660

(D) An amount for each school district with guidance, 17661
testing, and counseling programs approved by the state board of 17662
education. The amount shall be determined on the basis of 17663
standards adopted by the state board of education. 17664

(E) An amount for the emergency purchase of school buses as 17665
provided for in section 3317.07 of the Revised Code; 17666

(F) An amount for each school district required to pay 17667
tuition for a child in an institution maintained by the department 17668
of youth services pursuant to section 3317.082 of the Revised 17669
Code, provided the child was not included in the calculation of 17670
the district's average daily membership for the preceding school 17671
year. 17672

(G) In fiscal year 2000 only, an amount to each school 17673
district for supplemental salary allowances for each licensed 17674
employee except those licensees serving as superintendents, 17675
assistant superintendents, principals, or assistant principals, 17676
whose term of service in any year is extended beyond the term of 17677
service of regular classroom teachers, as described in section 17678
3301.0725 of the Revised Code; 17679

(H) An amount for adult basic literacy education for each 17680
district participating in programs approved by the state board of 17681
education. The amount shall be determined on the basis of 17682
standards adopted by the state board of education. 17683

(I) Notwithstanding section 3317.01 of the Revised Code, but 17684
only until June 30, 1999, to each city, local, and exempted 17685
village school district, an amount for conducting driver education 17686
courses at high schools for which the state board of education 17687
prescribes minimum standards and to joint vocational and 17688
cooperative education school districts and educational service 17689
centers, an amount for conducting driver education courses to 17690

pupils enrolled in a high school for which the state board 17691
prescribes minimum standards. No payments shall be made under this 17692
division after June 30, 1999. 17693

(J) An amount for the approved cost of transporting 17694
developmentally handicapped pupils whom it is impossible or 17695
impractical to transport by regular school bus in the course of 17696
regular route transportation provided by the district or service 17697
center. No district or service center is eligible to receive a 17698
payment under this division for the cost of transporting any pupil 17699
whom it transports by regular school bus and who is included in 17700
the district's transportation ADM. The state board of education 17701
shall establish standards and guidelines for use by the department 17702
of education in determining the approved cost of such 17703
transportation for each district or service center. 17704

(K) An amount to each school district, including each 17705
cooperative education school district, pursuant to section 3313.81 17706
of the Revised Code to assist in providing free lunches to needy 17707
children and an amount to assist needy school districts in 17708
purchasing necessary equipment for food preparation. The amounts 17709
shall be determined on the basis of rules adopted by the state 17710
board of education. 17711

(L) An amount to each school district, for each pupil 17712
attending a chartered nonpublic elementary or high school within 17713
the district. The amount shall equal the amount appropriated for 17714
the implementation of section 3317.06 of the Revised Code divided 17715
by the average daily membership in grades kindergarten through 17716
twelve in nonpublic elementary and high schools within the state 17717
as determined during the first full week in October of each school 17718
year. 17719

(M) An amount for each county MR/DD board, distributed on the 17720
basis of standards adopted by the state board of education, for 17721
the approved cost of transportation required for children 17722

attending special education programs operated by the county MR/DD board under section 3323.09 of the Revised Code; 17723
17724

(N) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for supportive home services for preschool children; 17725
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(O) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program. 17728
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(P) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars. 17733
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(Q) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code. 17743
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(R) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the 17750
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payment shall be the district's state share percentage, as defined 17754
in section 3317.022 or 3317.16 of the Revised Code, times the 17755
GRADS personnel allowance times the full-time-equivalent number of 17756
GRADS teachers approved by the department. The GRADS personnel 17757
allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 17758
2005. 17759

The state board of education or any other board of education 17760
or governing board may provide for any resident of a district or 17761
educational service center territory any educational service for 17762
which funds are made available to the board by the United States 17763
under the authority of public law, whether such funds come 17764
directly or indirectly from the United States or any agency or 17765
department thereof or through the state or any agency, department, 17766
or political subdivision thereof. 17767

Sec. 3317.029. (A) As used in this section: 17768

(1) "DPIA percentage" means: 17769

(a) In fiscal years prior to fiscal year 2004, the quotient 17770
obtained by dividing the five-year average number of children ages 17771
five to seventeen residing in the school district and living in a 17772
family receiving assistance under the Ohio works first program or 17773
an antecedent program known as TANF or ADC, as certified or 17774
adjusted under section 3317.10 of the Revised Code, by the 17775
district's three-year average formula ADM. 17776

(b) Beginning in fiscal year 2004, the unduplicated number of 17777
children ages five to seventeen residing in the school district 17778
and living in a family that has family income not exceeding the 17779
federal poverty guidelines and that receives family assistance, as 17780
certified or adjusted under section 3317.10 of the Revised Code, 17781
divided by the district's three-year average formula ADM. 17782

(2) "Family assistance" means assistance received under one 17783

of the following:	17784
(a) The Ohio works first program;	17785
(b) The food stamp program;	17786
(c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;	17787 17788 17789
(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;	17790 17791 17792 17793
(e) The disability <u>financial</u> assistance program established under Chapter 5115. of the Revised Code;	17794 17795
(f) <u>The disability medical assistance program established under Chapter 5115. of the Revised Code.</u>	17796 17797
(3) "Statewide DPIA percentage" means:	17798
(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.	17799 17800 17801 17802 17803 17804
(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 federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.	17805 17806 17807 17808 17809 17810
(4) "DPIA index" means the quotient obtained by dividing the school district's DPIA percentage by the statewide DPIA percentage.	17811 17812 17813

(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 17814
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(6) "DPIA student count" means: 17816

(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code; 17817
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(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. 17823
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(7) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten. 17828
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(8) "Kindergarten through third grade ADM" means the amount calculated as follows: 17831
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(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage; 17833
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(b) Add the number of students in grades one through three; 17835

(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three. 17836
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(9) "Statewide average teacher salary" means forty-two thousand four hundred sixty-nine dollars in fiscal year 2002, and forty-three thousand six hundred fifty-eight dollars in fiscal year 2003, which includes an amount for the value of fringe benefits. 17839
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(10) "All-day kindergarten" means a kindergarten class that 17844
is in session ~~five days per week~~ for not less than the same number 17845
of clock hours each ~~day~~ week as for pupils in grades one through 17846
six. 17847

(11) "All-day kindergarten percentage" means the percentage 17848
of a district's actual total number of students enrolled in 17849
kindergarten who are enrolled in all-day kindergarten. 17850

(12) "Buildings with the highest concentration of need" 17851
means: 17852

(a) In fiscal years prior to fiscal year 2004, the school 17853
buildings in a district with percentages of students in grades 17854
kindergarten through three receiving assistance under Ohio works 17855
first at least as high as the district-wide percentage of students 17856
receiving such assistance. 17857

(b) Beginning in fiscal year 2004, the school buildings in a 17858
district with percentages of students in grades kindergarten 17859
through three receiving family assistance at least as high as the 17860
district-wide percentage of students receiving family assistance. 17861

(c) If, in any fiscal year, the information provided by the 17862
department of job and family services under section 3317.10 of the 17863
Revised Code is insufficient to determine the Ohio works first or 17864
family assistance percentage in each building, "buildings with the 17865
highest concentration of need" has the meaning given in rules that 17866
the department of education shall adopt. The rules shall base the 17867
definition of "buildings with the highest concentration of need" 17868
on family income of students in grades kindergarten through three 17869
in a manner that, to the extent possible with available data, 17870
approximates the intent of this division and division (G) of this 17871
section to designate buildings where the Ohio works first or 17872
family assistance percentage in those grades equals or exceeds the 17873
district-wide Ohio works first or family assistance percentage. 17874

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a school district shall receive the greater of the amount the district received in fiscal year 1998 pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the sum of the computations made under divisions (C) to (E) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar programs, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty-five-hundredths, but less than one, an amount obtained by multiplying the district's DPIA student count by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the district's DPIA student count.

Except as otherwise provided in division (F) of this section, beginning with the school year that starts July 1, 2002, each school district annually shall use at least twenty per cent of the funds calculated for the district under this division for intervention services required by section 3313.608 of the Revised Code.

(D) A payment for all-day kindergarten if the DPIA index of the school district is greater than or equal to one or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the

number of new teachers necessary to achieve a lower 17906
student-teacher ratio, as follows: 17907

(1) Determine or calculate a formula number of teachers per 17908
one thousand students based on the DPIA index of the school 17909
district as follows: 17910

(a) If the DPIA index of the school district is less than 17911
six-tenths, the formula number of teachers is 43.478, which is the 17912
number of teachers per one thousand students at a student-teacher 17913
ratio of twenty-three to one; 17914

(b) If the DPIA index of the school district is greater than 17915
or equal to six-tenths, but less than two and one-half, the 17916
formula number of teachers is calculated as follows: 17917

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 17918$$

Where 43.478 is the number of teachers per one thousand 17919
students at a student-teacher ratio of twenty-three to one; 1.9 is 17920
the interval from a DPIA index of six-tenths to a DPIA index of 17921
two and one-half; and 23.188 is the difference in the number of 17922
teachers per one thousand students at a student-teacher ratio of 17923
fifteen to one and the number of teachers per one thousand 17924
students at a student-teacher ratio of twenty-three to one. 17925

(c) If the DPIA index of the school district is greater than 17926
or equal to two and one-half, the formula number of teachers is 17927
66.667, which is the number of teachers per one thousand students 17928
at a student-teacher ratio of fifteen to one. 17929

(2) Multiply the formula number of teachers determined or 17930
calculated in division (E)(1) of this section by the kindergarten 17931
through third grade ADM for the district and divide that product 17932
by one thousand; 17933

(3) Calculate the number of new teachers as follows: 17934

(a) Multiply the kindergarten through third grade ADM by 17935

43.478, which is the number of teachers per one thousand students 17936
at a student-teacher ratio of twenty-three to one, and divide that 17937
product by one thousand; 17938

(b) Subtract the quotient obtained in division (E)(3)(a) of 17939
this section from the product in division (E)(2) of this section. 17940

(4) Multiply the greater of the difference obtained under 17941
division (E)(3) of this section or zero by the statewide average 17942
teachers salary. 17943

(F) This division applies only to school districts whose DPIA 17944
index is one or greater. 17945

(1) Each school district subject to this division shall first 17946
utilize funds received under this section so that, when combined 17947
with other funds of the district, sufficient funds exist to 17948
provide all-day kindergarten to at least the number of children in 17949
the district's all-day kindergarten percentage. 17950

(2) Up to an amount equal to the district's DPIA index 17951
multiplied by its DPIA student count multiplied by two hundred 17952
thirty dollars of the money distributed under this section may be 17953
utilized for one or both of the following: 17954

(a) Programs designed to ensure that schools are free of 17955
drugs and violence and have a disciplined environment conducive to 17956
learning; 17957

(b) Remediation for students who have failed or are in danger 17958
of failing any of the tests administered pursuant to section 17959
3301.0710 of the Revised Code. 17960

Beginning with the school year that starts on July 1, 2002, 17961
each school district shall use at least twenty per cent of the 17962
funds set aside for the purposes of divisions (F)(2)(a) and (b) of 17963
this section to provide intervention services required by section 17964
3313.608 of the Revised Code. 17965

(3) Except as otherwise required by division (G) or permitted 17966
under division (K) of this section, all other funds distributed 17967
under this section to districts subject to this division shall be 17968
utilized for the purpose of the third grade guarantee. The third 17969
grade guarantee consists of increasing the amount of instructional 17970
attention received per pupil in kindergarten through third grade, 17971
either by reducing the ratio of students to instructional 17972
personnel or by increasing the amount of instruction and 17973
curriculum-related activities by extending the length of the 17974
school day or the school year. 17975

School districts may implement a reduction of the ratio of 17976
students to instructional personnel through any or all of the 17977
following methods: 17978

(a) Reducing the number of students in a classroom taught by 17979
a single teacher; 17980

(b) Employing full-time educational aides or educational 17981
paraprofessionals issued a permit or license under section 17982
3319.088 of the Revised Code; 17983

(c) Instituting a team-teaching method that will result in a 17984
lower student-teacher ratio in a classroom. 17985

Districts may extend the school day either by increasing the 17986
amount of time allocated for each class, increasing the number of 17987
classes provided per day, offering optional academic-related 17988
after-school programs, providing curriculum-related extra 17989
curricular activities, or establishing tutoring or remedial 17990
services for students who have demonstrated an educational need. 17991
In accordance with section 3319.089 of the Revised Code, a 17992
district extending the school day pursuant to this division may 17993
utilize a participant of the work experience program who has a 17994
child enrolled in a public school in that district and who is 17995
fulfilling the work requirements of that program by volunteering 17996

or working in that public school. If the work experience program 17997
participant is compensated, the school district may use the funds 17998
distributed under this section for all or part of the 17999
compensation. 18000

Districts may extend the school year either through adding 18001
regular days of instruction to the school calendar or by providing 18002
summer programs. 18003

(G) Each district subject to division (F) of this section 18004
shall not expend any funds received under division (E) of this 18005
section in any school buildings that are not buildings with the 18006
highest concentration of need, unless there is a ratio of 18007
instructional personnel to students of no more than fifteen to one 18008
in each kindergarten and first grade class in all buildings with 18009
the highest concentration of need. This division does not require 18010
that the funds used in buildings with the highest concentration of 18011
need be spent solely to reduce the ratio of instructional 18012
personnel to students in kindergarten and first grade. A school 18013
district may spend the funds in those buildings in any manner 18014
permitted by division (F)(3) of this section, but may not spend 18015
the money in other buildings unless the fifteen-to-one ratio 18016
required by this division is attained. 18017

(H)(1) By the first day of August of each fiscal year, each 18018
school district wishing to receive any funds under division (D) of 18019
this section shall submit to the department of education an 18020
estimate of its all-day kindergarten percentage. Each district 18021
shall update its estimate throughout the fiscal year in the form 18022
and manner required by the department, and the department shall 18023
adjust payments under this section to reflect the updates. 18024

(2) Annually by the end of December, the department of 18025
education, utilizing data from the information system established 18026
under section 3301.0714 of the Revised Code and after consultation 18027
with the legislative office of education oversight, shall 18028

determine for each school district subject to division (F) of this 18029
section whether in the preceding fiscal year the district's ratio 18030
of instructional personnel to students and its number of 18031
kindergarten students receiving all-day kindergarten appear 18032
reasonable, given the amounts of money the district received for 18033
that fiscal year pursuant to divisions (D) and (E) of this 18034
section. If the department is unable to verify from the data 18035
available that students are receiving reasonable amounts of 18036
instructional attention and all-day kindergarten, given the funds 18037
the district has received under this section and that class-size 18038
reduction funds are being used in school buildings with the 18039
highest concentration of need as required by division (G) of this 18040
section, the department shall conduct a more intensive 18041
investigation to ensure that funds have been expended as required 18042
by this section. The department shall file an annual report of its 18043
findings under this division with the chairpersons of the 18044
committees in each house of the general assembly dealing with 18045
finance and education. 18046

(I) Any school district with a DPIA index less than one and a 18047
three-year average formula ADM exceeding seventeen thousand five 18048
hundred shall first utilize funds received under this section so 18049
that, when combined with other funds of the district, sufficient 18050
funds exist to provide all-day kindergarten to at least the number 18051
of children in the district's all-day kindergarten percentage. 18052
Such a district shall expend at least seventy per cent of the 18053
remaining funds received under this section, and any other 18054
district with a DPIA index less than one shall expend at least 18055
seventy per cent of all funds received under this section, for any 18056
of the following purposes: 18057

- (1) The purchase of technology for instructional purposes; 18058
- (2) All-day kindergarten; 18059
- (3) Reduction of class sizes; 18060

(4) Summer school remediation;	18061
(5) Dropout prevention programs;	18062
(6) Guaranteeing that all third graders are ready to progress to more advanced work;	18063 18064
(7) Summer education and work programs;	18065
(8) Adolescent pregnancy programs;	18066
(9) Head start or preschool programs;	18067
(10) Reading improvement programs described by the department of education;	18068 18069
(11) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;	18070 18071 18072
(12) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;	18073 18074 18075 18076 18077 18078
(13) School breakfasts provided pursuant to section 3313.813 of the Revised Code.	18079 18080
Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.	18081 18082 18083
(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	18084 18085 18086 18087 18088 18089

the difference in the certified all-day kindergarten percentage 18090
and the percentage actually enrolled in all-day kindergarten. 18091

The superintendent shall also withhold an appropriate amount 18092
of funds otherwise due a district for any other misuse of funds 18093
not in accordance with this section. 18094

(K)(1) A district may use a portion of the funds calculated 18095
for it under division (D) of this section to modify or purchase 18096
classroom space to provide all-day kindergarten, if both of the 18097
following conditions are met: 18098

(a) The district certifies to the department, in a manner 18099
acceptable to the department, that it has a shortage of space for 18100
providing all-day kindergarten. 18101

(b) The district provides all-day kindergarten to the number 18102
of children in the all-day kindergarten percentage it certified 18103
under this section. 18104

(2) A district may use a portion of the funds described in 18105
division (F)(3) of this section to modify or purchase classroom 18106
space to enable it to further reduce class size in grades 18107
kindergarten through two with a goal of attaining class sizes of 18108
fifteen students per licensed teacher. To do so, the district must 18109
certify its need for additional space to the department, in a 18110
manner satisfactory to the department. 18111

Sec. 3317.0217. The department of education shall ~~annually~~ 18112
monthly compute and pay state parity aid to school districts, as 18113
follows: 18114

(A) Calculate the local wealth per pupil of each school 18115
district, which equals the following sum: 18116

(1) Two-thirds times the quotient of (a) the district's 18117
recognized valuation divided by (b) its ~~formula-ADM~~ average daily 18118
attendance; plus 18119

(2) One-third times the quotient of (a) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (b) its ~~formula~~ ADM average daily attendance.

(B) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(C) Compute the per pupil state parity aid funding for each school district in accordance with the following formula:

Payment percentage X (threshold local wealth per pupil - the district's local wealth per pupil) X 0.0095

Where:

(1) "Payment percentage," for purposes of division (C) of this section, equals 20% in fiscal year 2002, 40% in fiscal year 2003, 60% in fiscal year 2004, 80% in fiscal year 2005, and 100% after fiscal year 2005.

(2) Nine and one-half mills (0.0095) is the general assembly's determination of the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collected in fiscal year 2001 above the revenues required to finance their attributed local shares of the calculated cost of an adequate education. This was 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. 18151

(3) The "threshold local wealth per pupil" is the local 18152
wealth per pupil of the school district with the 18153
four-hundred-ninetieth lowest local wealth per pupil. 18154

If the result of the calculation for a school district under 18155
division (C) of this section is less than zero, the district's per 18156
pupil parity aid shall be zero. 18157

(D) Compute the per pupil alternative parity aid for each 18158
school district that has a combination of an income factor of 1.0 18159
or less, a DPIA index of 1.0 or greater, and a 18160
cost-of-doing-business factor of 1.0375 or greater, in accordance 18161
with the following formula: 18162

Payment percentage X \$60,000 X 18163
(1 - income factor) X 4/15 X 0.023 18164

Where: 18165

(1) "DPIA index" has the same meaning as in section 3317.029 18166
of the Revised Code. 18167

(2) "Payment percentage," for purposes of division (D) of 18168
this section, equals 50% in fiscal year 2002 and 100% after fiscal 18169
year 2002. 18170

(E) Pay each district that has a combination of an income 18171
factor 1.0 or less, a DPIA index of 1.0 or greater, and a 18172
cost-of-doing-business factor of 1.0375 or greater, the greater of 18173
the following: 18174

(1) The product of the district's per pupil parity aid 18175
calculated under division (C) of this section times its ~~formula~~ 18176
~~ADM~~ average daily attendance; 18177

(2) The product of its per pupil alternative parity aid 18178
calculated under division (D) of this section times its ~~formula~~ 18179
~~ADM~~ average daily attendance. 18180

(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its ~~formula~~ ADM average daily attendance.

~~Every six years, the general assembly shall redetermine, after considering the report of the committee appointed under section 3317.012 of the Revised Code, the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collect above the revenues required to finance their attributed local shares of the cost of an adequate education.~~

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.

(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:

(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:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

~~(c) Students receiving services in the district pursuant to a~~

~~compact, cooperative education agreement, or a contract, but who~~ 18211
~~are entitled to attend school in another district pursuant to~~ 18212
~~section 3313.64 or 3313.65 of the Revised Code;~~ 18213

~~(d)~~ Students for whom tuition is payable pursuant to sections 18214
3317.081 and 3323.141 of the Revised Code. 18215

(2) On an FTE basis, the number of students entitled to 18216
attend school in the district pursuant to section 3313.64 or 18217
3313.65 of the Revised Code, but receiving educational services in 18218
grades kindergarten through twelve from one or more of the 18219
following entities: 18220

(a) A community school pursuant to Chapter 3314. of the 18221
Revised Code, including any participation in a college pursuant to 18222
Chapter 3365. of the Revised Code while enrolled in such community 18223
school; 18224

(b) An alternative school pursuant to sections 3313.974 to 18225
3313.979 of the Revised Code as described in division (I)(2)(a) or 18226
(b) of this section; 18227

(c) A college pursuant to Chapter 3365. of the Revised Code, 18228
except when the student is enrolled in the college while also 18229
enrolled in a community school pursuant to Chapter 3314. of the 18230
Revised Code; 18231

(d) An adjacent or other school district under an open 18232
enrollment policy adopted pursuant to section 3313.98 of the 18233
Revised Code; 18234

(e) An educational service center or cooperative education 18235
district; 18236

~~(f) Another school district under a cooperative education~~ 18237
~~agreement, compact, or contract.~~ 18238

(3) One-fourth of the number of students enrolled in a joint 18239
vocational school district or under a vocational education 18240

compact, excluding any students entitled to attend school in the 18241
district under section 3313.64 or 3313.65 of the Revised Code who 18242
are enrolled in another school district through an open enrollment 18243
policy as reported under division (A)(2)(d) of this section and 18244
then enroll in a joint vocational school district or under a 18245
vocational education compact; 18246

(4) The number of handicapped children, other than 18247
handicapped preschool children, entitled to attend school in the 18248
district pursuant to section 3313.64 or 3313.65 of the Revised 18249
Code who are placed with a county MR/DD board, minus the number of 18250
such children placed with a county MR/DD board in fiscal year 18251
1998. If this calculation produces a negative number, the number 18252
reported under division (A)(4) of this section shall be zero. 18253

(B) To enable the department of education to obtain the data 18254
needed to complete the calculation of payments pursuant to this 18255
chapter, in addition to the formula ADM, each superintendent shall 18256
report separately the following student counts: 18257

(1) The total average daily membership in regular day classes 18258
included in the report under division (A)(1) or (2) of this 18259
section for kindergarten, and each of grades one through twelve in 18260
schools under the superintendent's supervision; 18261

(2) The number of all handicapped preschool children enrolled 18262
as of the first day of December in classes in the district that 18263
are eligible for approval ~~by the state board of education~~ under 18264
division (B) of section 3317.05 of the Revised Code and the number 18265
of those classes, which shall be reported not later than the 18266
fifteenth day of December, in accordance with rules adopted under 18267
that section; 18268

(3) The number of children entitled to attend school in the 18269
district pursuant to section 3313.64 or 3313.65 of the Revised 18270
Code who are participating in a pilot project scholarship program 18271

established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, are enrolled in a college under 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, are enrolled in an adjacent or other school district under section 3313.98 of the Revised Code, are enrolled in a community school established under Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school, or are participating in a program operated by a county MR/DD board or a state institution;

(4) The number of pupils enrolled in joint vocational schools;

(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;

(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;

(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;

(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;

(9) The average daily membership of handicapped children

reported under division (A)(1) or (2) of this section receiving 18303
special education services for the category five handicap 18304
described in division (E) of section 3317.013 of the Revised Code; 18305

(10) The average daily membership of handicapped children 18306
reported under division (A)(1) or (2) of this section receiving 18307
special education services for category six handicaps described in 18308
division (F) of section 3317.013 of the Revised Code; 18309

(11) The average daily membership of pupils reported under 18310
division (A)(1) or (2) of this section enrolled in category one 18311
vocational education programs or classes, described in division 18312
(A) of section 3317.014 of the Revised Code, operated by the 18313
school district or by another district, other than a joint 18314
vocational school district, or by an educational service center; 18315

(12) The average daily membership of pupils reported under 18316
division (A)(1) or (2) of this section enrolled in category two 18317
vocational education programs or services, described in division 18318
(B) of section 3317.014 of the Revised Code, operated by the 18319
school district or another school district, other than a joint 18320
vocational school district, or by an educational service center; 18321

(13) The average number of children transported by the school 18322
district on board-owned or contractor-owned and -operated buses, 18323
reported in accordance with rules adopted by the department of 18324
education; 18325

(14)(a) The number of children, other than handicapped 18326
preschool children, the district placed with a county MR/DD board 18327
in fiscal year 1998; 18328

(b) The number of handicapped children, other than 18329
handicapped preschool children, placed with a county MR/DD board 18330
in the current fiscal year to receive special education services 18331
for the category one handicap described in division (A) of section 18332
3317.013 of the Revised Code; 18333

(c) The number of handicapped children, other than 18334
handicapped preschool children, placed with a county MR/DD board 18335
in the current fiscal year to receive special education services 18336
for category two handicaps described in division (B) of section 18337
3317.013 of the Revised Code; 18338

(d) The number of handicapped children, other than 18339
handicapped preschool children, placed with a county MR/DD board 18340
in the current fiscal year to receive special education services 18341
for category three handicaps described in division (C) of section 18342
3317.013 of the Revised Code; 18343

(e) The number of handicapped children, other than 18344
handicapped preschool children, placed with a county MR/DD board 18345
in the current fiscal year to receive special education services 18346
for category four handicaps described in division (D) of section 18347
3317.013 of the Revised Code; 18348

(f) The number of handicapped children, other than 18349
handicapped preschool children, placed with a county MR/DD board 18350
in the current fiscal year to receive special education services 18351
for the category five handicap described in division (E) of 18352
section 3317.013 of the Revised Code; 18353

(g) The number of handicapped children, other than 18354
handicapped preschool children, placed with a county MR/DD board 18355
in the current fiscal year to receive special education services 18356
for category six handicaps described in division (F) of section 18357
3317.013 of the Revised Code. 18358

(C)(1) Except as otherwise provided in this section for 18359
kindergarten students, the average daily membership in divisions 18360
(B)(1) to (12) of this section shall be based upon the number of 18361
full-time equivalent students. The state board of education shall 18362
adopt rules defining full-time equivalent students and for 18363
determining the average daily membership therefrom for the 18364

purposes of divisions (A), (B), and (D) of this section. 18365

(2) A student enrolled in a community school established 18366
under Chapter 3314. of the Revised Code shall be counted in the 18367
formula ADM and, if applicable, the category one, two, three, 18368
four, five, or six special education ADM of the school district in 18369
which the student is entitled to attend school under section 18370
3313.64 or 3313.65 of the Revised Code for the same proportion of 18371
the school year that the student is counted in the enrollment of 18372
the community school for purposes of section 3314.08 of the 18373
Revised Code. 18374

(3) No child shall be counted as more than a total of one 18375
child in the sum of the average daily memberships of a school 18376
district under division (A), divisions (B)(1) to (12), or division 18377
(D) of this section, except as follows: 18378

(a) A child with a handicap described in section 3317.013 of 18379
the Revised Code may be counted both in formula ADM and in 18380
category one, two, three, four, five, or six special education ADM 18381
and, if applicable, in category one or two vocational education 18382
ADM. As provided in division (C) of section 3317.02 of the Revised 18383
Code, such a child shall be counted in category one, two, three, 18384
four, five, or six special education ADM in the same proportion 18385
that the child is counted in formula ADM. 18386

(b) A child enrolled in vocational education programs or 18387
classes described in section 3317.014 of the Revised Code may be 18388
counted both in formula ADM and category one or two vocational 18389
education ADM and, if applicable, in category one, two, three, 18390
four, five, or six special education ADM. Such a child shall be 18391
counted in category one or two vocational education ADM in the 18392
same proportion as the percentage of time that the child spends in 18393
the vocational education programs or classes. 18394

(4) Based on the information reported under this section, the 18395

department of education shall determine the total student count, 18396
as defined in section 3301.011 of the Revised Code, for each 18397
school district. 18398

(D)(1) The superintendent of each joint vocational school 18399
district shall certify to the superintendent of public instruction 18400
on or before the fifteenth day of October in each year for the 18401
first full school week in October the formula ADM, which, except 18402
as otherwise provided in this division, shall consist of the 18403
average daily membership during such week, on an FTE basis, of the 18404
number of students receiving any educational services from the 18405
district, including students enrolled in a community school 18406
established under Chapter 3314. of the Revised Code who are 18407
attending the joint vocational district under an agreement between 18408
the district board of education and the governing authority of the 18409
community school and are entitled to attend school in a city, 18410
local, or exempted village school district whose territory is part 18411
of the territory of the joint vocational district. 18412

The following categories of students shall not be included in 18413
the determination made under division (D)(1) of this section: 18414

(a) Students enrolled in adult education classes; 18415

(b) Adjacent or other district joint vocational students 18416
enrolled in the district under an open enrollment policy pursuant 18417
to section 3313.98 of the Revised Code; 18418

(c) Students receiving services in the district pursuant to a 18419
compact, cooperative education agreement, or a contract, but who 18420
are entitled to attend school in a city, local, or exempted 18421
village school district whose territory is not part of the 18422
territory of the joint vocational district; 18423

(d) Students for whom tuition is payable pursuant to sections 18424
3317.081 and 3323.141 of the Revised Code. 18425

(2) To enable the department of education to obtain the data 18426

needed to complete the calculation of payments pursuant to this 18427
chapter, in addition to the formula ADM, each superintendent shall 18428
report separately the average daily membership included in the 18429
report under division (D)(1) of this section for each of the 18430
following categories of students: 18431

(a) Students enrolled in each grade included in the joint 18432
vocational district schools; 18433

(b) Handicapped children receiving special education services 18434
for the category one handicap described in division (A) of section 18435
3317.013 of the Revised Code; 18436

(c) Handicapped children receiving special education services 18437
for the category two handicaps described in division (B) of 18438
section 3317.013 of the Revised Code; 18439

(d) Handicapped children receiving special education services 18440
for category three handicaps described in division (C) of section 18441
3317.013 of the Revised Code; 18442

(e) Handicapped children receiving special education services 18443
for category four handicaps described in division (D) of section 18444
3317.013 of the Revised Code; 18445

(f) Handicapped children receiving special education services 18446
for the category five handicap described in division (E) of 18447
section 3317.013 of the Revised Code; 18448

(g) Handicapped children receiving special education services 18449
for category six handicaps described in division (F) of section 18450
3317.013 of the Revised Code; 18451

(h) Students receiving category one vocational education 18452
services, described in division (A) of section 3317.014 of the 18453
Revised Code; 18454

(i) Students receiving category two vocational education 18455
services, described in division (B) of section 3317.014 of the 18456

Revised Code. 18457

The superintendent of each joint vocational school district 18458
shall also indicate the city, local, or exempted village school 18459
district in which each joint vocational district pupil is entitled 18460
to attend school pursuant to section 3313.64 or 3313.65 of the 18461
Revised Code. 18462

(E) In each school of each city, local, exempted village, 18463
joint vocational, and cooperative education school district there 18464
shall be maintained a record of school membership, which record 18465
shall accurately show, for each day the school is in session, the 18466
actual membership enrolled in regular day classes. For the purpose 18467
of determining average daily membership, the membership figure of 18468
any school shall not include any pupils except those pupils 18469
described by division (A) of this section. The record of 18470
membership for each school shall be maintained in such manner that 18471
no pupil shall be counted as in membership prior to the actual 18472
date of entry in the school and also in such manner that where for 18473
any cause a pupil permanently withdraws from the school that pupil 18474
shall not be counted as in membership from and after the date of 18475
such withdrawal. There shall not be included in the membership of 18476
any school any of the following: 18477

(1) Any pupil who has graduated from the twelfth grade of a 18478
public high school; 18479

(2) Any pupil who is not a resident of the state; 18480

(3) Any pupil who was enrolled in the schools of the district 18481
during the previous school year when tests were administered under 18482
section 3301.0711 of the Revised Code but did not take one or more 18483
of the tests required by that section and was not excused pursuant 18484
to division (C)(1) of that section; 18485

(4) Any pupil who has attained the age of twenty-two years, 18486
except for veterans of the armed services whose attendance was 18487

interrupted before completing the recognized twelve-year course of 18488
the public schools by reason of induction or enlistment in the 18489
armed forces and who apply for reenrollment in the public school 18490
system of their residence not later than four years after 18491
termination of war or their honorable discharge. 18492

If, however, any veteran described by division (E)(4) of this 18493
section elects to enroll in special courses organized for veterans 18494
for whom tuition is paid under the provisions of federal laws, or 18495
otherwise, that veteran shall not be included in average daily 18496
membership. 18497

Notwithstanding division (E)(3) of this section, the 18498
membership of any school may include a pupil who did not take a 18499
test required by section 3301.0711 of the Revised Code if the 18500
superintendent of public instruction grants a waiver from the 18501
requirement to take the test to the specific pupil. The 18502
superintendent may grant such a waiver only for good cause in 18503
accordance with rules adopted by the state board of education. 18504

Except as provided in divisions (B)(2) and (F) of this 18505
section, the average daily membership figure of any local, city, 18506
exempted village, or joint vocational school district shall be 18507
determined by dividing the figure representing the sum of the 18508
number of pupils enrolled during each day the school of attendance 18509
is actually open for instruction during the first full school week 18510
in October by the total number of days the school was actually 18511
open for instruction during that week. For purposes of state 18512
funding, "enrolled" persons are only those pupils who are 18513
attending school, those who have attended school during the 18514
current school year and are absent for authorized reasons, and 18515
those handicapped children currently receiving home instruction. 18516

The average daily membership figure of any cooperative 18517
education school district shall be determined in accordance with 18518
rules adopted by the state board of education. 18519

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating ~~the amounts to be allocated in accordance with payments under~~ section 3317.022 or 3317.16 of the Revised Code that are based on formula ADM and not on average daily attendance. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the ~~state board of education~~ department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the ~~board~~ department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department ~~of education~~ shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the first full school week of October for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the 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 18584
the board, the average daily membership in classes under section 18585
3317.20 of the Revised Code for each school district that has 18586
placed children in the classes; 18587

(b) Certify to the state board, in the manner prescribed by 18588
the board, the number of all handicapped preschool children 18589
enrolled as of the first day of December in classes eligible for 18590
approval under division (B) of section 3317.05 of the Revised 18591
Code, and the number of those classes. 18592

(3)(a) If on the first school day of April the number of 18593
classes or units maintained for handicapped preschool children by 18594
the county MR/DD board that are eligible for approval under 18595
division (B) of section 3317.05 of the Revised Code is greater 18596
than the number of units approved for the year under that 18597
division, the superintendent shall make the certification required 18598
by this section for that day. 18599

(b) If the ~~state board~~ department determines that additional 18600
classes or units can be approved for the fiscal year within any 18601
limitations set forth in the acts appropriating moneys for the 18602
funding of the classes and units described in division (G)(3)(a) 18603
of this section, the ~~board~~ department shall approve and fund 18604
additional units for the fiscal year on the basis of such average 18605
daily membership. For each unit so approved, the department ~~of~~ 18606
~~education~~ shall pay an amount computed in the manner prescribed in 18607
sections 3317.052 and 3317.053 of the Revised Code. 18608

(H) Except as provided in division (I) of this section, when 18609
any city, local, or exempted village school district provides 18610
instruction for a nonresident pupil whose attendance is 18611
unauthorized attendance as defined in section 3327.06 of the 18612
Revised Code, that pupil's membership shall not be included in 18613
that district's membership figure used in the calculation of that 18614

district's formula ADM or included in the determination of any 18615
unit approved for the district under section 3317.05 of the 18616
Revised Code. The reporting official shall report separately the 18617
average daily membership of all pupils whose attendance in the 18618
district is unauthorized attendance, and the membership of each 18619
such pupil shall be credited to the school district in which the 18620
pupil is entitled to attend school under division (B) of section 18621
3313.64 or section 3313.65 of the Revised Code as determined by 18622
the department of education. 18623

(I)(1) A city, local, exempted village, or joint vocational 18624
school district admitting a scholarship student of a pilot project 18625
district pursuant to division (C) of section 3313.976 of the 18626
Revised Code may count such student in its average daily 18627
membership. 18628

(2) In any year for which funds are appropriated for pilot 18629
project scholarship programs, a school district implementing a 18630
state-sponsored pilot project scholarship program that year 18631
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 18632
count in average daily membership: 18633

(a) All children residing in the district and utilizing a 18634
scholarship to attend kindergarten in any alternative school, as 18635
defined in section 3313.974 of the Revised Code; 18636

(b) All children who were enrolled in the district in the 18637
preceding year who are utilizing a scholarship to attend any such 18638
alternative school. 18639

(J) The superintendent of each cooperative education school 18640
district shall certify to the superintendent of public 18641
instruction, in a manner prescribed by the state board of 18642
education, the applicable average daily memberships for all 18643
students in the cooperative education district, also indicating 18644
the city, local, or exempted village district where each pupil is 18645

entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3317.032. (A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county MR/DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:

(1) All handicapped preschool children in units approved under division (B) of section 3317.05 of the Revised Code;

(2) All handicapped preschool children who are not in units approved ~~by the state board~~ under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.

(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all handicapped preschool children whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under division (B) of section 3317.11 of the Revised Code.

Sec. 3317.034. Any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) Beginning in fiscal year 2005, the superintendent of each city, exempted village, local, and joint vocational school district shall, for the schools under the superintendent's

supervision, certify to the state board of education on or before 18676
the fifteenth day of each month from October through June, the 18677
average daily attendance for the previous month, which shall 18678
consist of the average daily attendance during that month of the 18679
sum of the following: 18680

(1) On an FTE basis, the number of students in attendance in 18681
each of grades kindergarten through twelve, except that the 18682
following categories of students shall not be included in the 18683
determination: 18684

(a) Adjacent or other district students enrolled in the 18685
district under an open enrollment policy pursuant to section 18686
3313.98 of the Revised Code; 18687

(b) Students for whom tuition is payable pursuant to sections 18688
3317.081 and 3323.141 of the Revised Code. 18689

(2) On an FTE basis, the number of students entitled to 18690
attend school in the district pursuant to section 3313.64 or 18691
3313.65 of the Revised Code, but receiving educational services in 18692
grades kindergarten through twelve from one or more of the 18693
following entities: 18694

(a) A community school pursuant to Chapter 3314. of the 18695
Revised Code; 18696

(b) An alternative school pursuant to sections 3313.974 to 18697
3313.979 of the Revised Code as described in division (H)(2)(a) or 18698
(b) of this section; 18699

(c) A college pursuant to Chapter 3365. of the Revised Code; 18700

(d) An adjacent or other school district under an open 18701
enrollment policy adopted pursuant to section 3313.98 of the 18702
Revised Code; 18703

(e) An educational service center or cooperative education 18704
district. 18705

(3) 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)(3) of this section shall be zero.

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(B) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the average daily attendance of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of each month that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

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(C) No child shall be counted as more than a total of one child in the average daily attendance of a school district.

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(1) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in average daily attendance and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in average daily attendance.

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(2) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in average daily attendance and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM.

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(D) The average daily attendance figure of any city, local,

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exempted village, or joint vocational school district shall not 18737
include any pupils except those pupils described by division (A) 18738
of this section. There shall not be included in the attendance of 18739
any school district any of the following: 18740

(1) Any pupil who has graduated from high school; 18741

(2) Any pupil who is not a resident of the state; 18742

(3) Any pupil who was enrolled in the schools of the district 18743
during the previous school year when tests were administered under 18744
section 3301.0711 of the Revised Code but did not take one or more 18745
of the tests required by that section and was not excused pursuant 18746
to division (C)(1) of that section, unless the superintendent of 18747
public instruction grants a waiver from the requirement to take 18748
the test to the specific pupil. The superintendent may grant such 18749
a waiver only for good cause in accordance with rules adopted by 18750
the state board of education. 18751

(4) Any pupil who has attained the age of twenty-two years, 18752
except for veterans of the armed services whose attendance was 18753
interrupted before completing the recognized twelve-year course of 18754
the public schools by reason of induction or enlistment in the 18755
armed forces and who apply for re-enrollment in the public school 18756
system of their residence not later than four years after 18757
termination of war or their honorable discharge. If, however, any 18758
veteran described by division (D)(4) of this section elects to 18759
enroll in special courses organized for veterans for whom tuition 18760
is paid under the provisions of federal laws, or otherwise, that 18761
veteran shall not be included in average daily attendance. 18762

(E) The average daily attendance of each city, exempted 18763
village, local, and joint vocational school district shall be 18764
determined by dividing the sum of the number of pupils on an FTE 18765
basis attending any part of a day the school of attendance is 18766
actually open for instruction during the prior month by the total 18767

number of days the school was actually open for instruction for 18768
any part of a day during that month. For this purpose, "attending" 18769
persons are only those pupils who are attending school, attending 18770
a school-sponsored field trip, serving an in-school suspension, or 18771
receiving educational services from the school district while 18772
expelled or serving an out-of-school suspension, and those 18773
handicapped children receiving home instruction. "Attending" 18774
persons do not include students absent with or without excuse. 18775
However, if a district allows a student to make up, during hours 18776
the student ordinarily does not attend school, instructional time 18777
missed due to an excused absence, the student's attendance during 18778
the make-up time may be counted, on an FTE basis, as attendance 18779
under this section. 18780

(F) Beginning in fiscal year 2005, the superintendent of each 18781
county MR/DD board that maintains special education classes under 18782
section 3317.20 of the Revised Code shall certify to the state 18783
board, in the manner prescribed by the state board, the average 18784
daily attendance in classes under section 3317.20 of the Revised 18785
Code for each school district that has placed children in the 18786
classes. 18787

(G) Except as provided in division (I) of this section, when 18788
any city, local, or exempted village school district provides 18789
instruction for a nonresident pupil whose attendance is 18790
unauthorized attendance as defined in section 3327.06 of the 18791
Revised Code, that pupil's attendance shall not be included in 18792
that district's average daily attendance. The reporting official 18793
shall report separately the average daily attendance of all pupils 18794
whose attendance in the district is unauthorized attendance, and 18795
the attendance of each such pupil shall be credited to the school 18796
district in which the pupil is entitled to attend school under 18797
division (B) of section 3313.64 or section 3313.65 of the Revised 18798
Code as determined by the department of education. 18799

(H)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily attendance. 18800
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(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily attendance: 18805
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(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code; 18810
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(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school. 18813
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(I) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the average daily attendance for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 18816
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Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the ~~state board~~ department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units 18824
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approved by the ~~state board~~ department on the basis of standards 18830
and rules adopted by the state board of education. As used in this 18831
division, "institution" means an institution operated by a 18832
department specified in section 3323.091 of the Revised Code and 18833
that provides vocational education programs under the supervision 18834
of the division of vocational education of the department ~~of~~ 18835
~~education~~ that meet the standards and rules for these programs, 18836
including licensure of professional staff involved in the 18837
programs, as established by the state board ~~of education~~. 18838

(B) For the purpose of calculating payments under sections 18839
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 18840
~~state board~~ department shall determine, based on information 18841
certified under section 3317.03 of the Revised Code, the following 18842
by the last day of January of each year for each educational 18843
service center, for each school district, including each 18844
cooperative education school district, for each institution 18845
eligible for payment under section 3323.091 of the Revised Code, 18846
and for each county MR/DD board: the number of classes operated by 18847
the school district, service center, institution, or county MR/DD 18848
board for handicapped preschool children, or fraction thereof, 18849
including in the case of a district or service center that is a 18850
funding agent, classes taught by a licensed teacher employed by 18851
that district or service center under section 3313.841 of the 18852
Revised Code, approved annually by the ~~state board~~ department on 18853
the basis of standards and rules adopted by the state board. 18854

(C) For the purpose of calculating payments under sections 18855
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 18856
~~state board~~ department shall determine, based on information 18857
certified under section 3317.03 of the Revised Code, the following 18858
by the last day of January of each year for each school district, 18859
including each cooperative education school district, for each 18860
institution eligible for payment under section 3323.091 of the 18861

Revised Code, and for each county MR/DD board: the number of 18862
preschool handicapped related services units for child study, 18863
occupational, physical, or speech and hearing therapy, special 18864
education supervisors, and special education coordinators approved 18865
annually by the ~~state board~~ department on the basis of standards 18866
and rules adopted by the state board. 18867

(D) For the purpose of calculating payments under sections 18868
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 18869
department shall determine, based on information certified under 18870
section 3317.03 of the Revised Code, the following by the last day 18871
of January of each year for each institution eligible for payment 18872
under section 3323.091 of the Revised Code: 18873

(1) The number of classes operated by an institution for 18874
handicapped children other than handicapped preschool children, or 18875
fraction thereof, approved annually by the ~~state board~~ department 18876
on the basis of standards and rules adopted by the state board; 18877

(2) The number of related services units for children other 18878
than handicapped preschool children for child study, occupational, 18879
physical, or speech and hearing therapy, special education 18880
supervisors, and special education coordinators approved annually 18881
by the ~~state board~~ department on the basis of standards and rules 18882
adopted by the state board. 18883

(E) All of the arithmetical calculations made under this 18884
section shall be carried to the second decimal place. The total 18885
number of units for school districts, service centers, and 18886
institutions approved annually ~~by the state board~~ under this 18887
section shall not exceed the number of units included in the ~~state~~ 18888
~~board's~~ estimate of cost for these units and appropriations made 18889
for them by the general assembly. 18890

In the case of units described in division (D)(1) of this 18891
section operated by institutions eligible for payment under 18892

section 3323.091 of the Revised Code, the ~~state board~~ department 18893
shall approve only units for persons who are under age twenty-two 18894
on the first day of the academic year, but not less than six years 18895
of age on the thirtieth day of September of that year, except that 18896
such a unit may include one or more children who are under six 18897
years of age on the thirtieth day of September if such children 18898
have been admitted to the unit pursuant to rules of the state 18899
board. In the case of handicapped preschool units described in 18900
division (B) of this section ~~operated by county MR/DD boards and~~ 18901
~~institutions eligible for payment under section 3323.091 of the~~ 18902
~~Revised Code, the state board~~ department shall approve only 18903
preschool units for children who are under age six but not less 18904
than age three on the ~~thirtieth~~ first day of ~~September~~ December of 18905
the academic year, except that such a unit may include one or more 18906
children who are under age three or are age six or over on the 18907
~~thirtieth~~ first day of ~~September~~ December, as reported under 18908
division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised 18909
Code, if such children have been admitted to the unit pursuant to 18910
rules of the state board ~~of education~~. The number of units for 18911
county MR/DD boards and institutions eligible for payment under 18912
section 3323.091 of the Revised Code approved ~~by the state board~~ 18913
under this section shall not exceed the number that can be funded 18914
with appropriations made for such purposes by the general 18915
assembly. 18916

No unit shall be approved under divisions (B) to (D) of this 18917
section unless a plan has been submitted and approved under 18918
Chapter 3323. of the Revised Code. 18919

(F) The department shall approve units or fractions thereof 18920
for gifted children on the basis of standards and rules adopted by 18921
the state board. 18922

Sec. 3317.064. (A) There is hereby established in the state 18923

treasury the auxiliary services ~~mobile unit replacement and repair~~ 18924
reimbursement fund. By the thirtieth day of January of each 18925
odd-numbered year, the director of job and family services and the 18926
superintendent of public instruction shall determine the amount of 18927
any excess moneys in the auxiliary services personnel unemployment 18928
compensation fund not reasonably necessary for the purposes of 18929
section 4141.47 of the Revised Code, and shall certify such amount 18930
to the director of budget and management for transfer to the 18931
auxiliary services ~~mobile unit replacement and repair~~ 18932
reimbursement fund. If the director of job and family services and 18933
the superintendent disagree on such amount, the director of budget 18934
and management shall determine the amount to be transferred. 18935

(B) Moneys in the auxiliary services ~~mobile unit replacement~~ 18936
~~and repair~~ reimbursement fund shall be used for the relocation or 18937
for the replacement and repair of mobile units used to provide the 18938
services specified in division (E), (F), (G), or (I) of section 18939
3317.06 of the Revised Code. The state board of education shall 18940
adopt guidelines and procedures for replacement, repair, and 18941
relocation of mobile units and the procedures under which a school 18942
district may apply to receive moneys with which to repair or 18943
replace or relocate such units. 18944

(C) School districts may apply to the department for moneys 18945
from the auxiliary services ~~mobile unit replacement and repair~~ 18946
reimbursement fund for payment of incentives for early retirement 18947
and severance for school district personnel assigned to provide 18948
services authorized by section 3317.06 of the Revised Code at 18949
chartered nonpublic schools. The portion of the cost of any early 18950
retirement or severance incentive for any employee that is paid 18951
using money from the auxiliary services ~~mobile unit replacement~~ 18952
~~and repair~~ reimbursement fund shall not exceed the percentage of 18953
such employee's total service credit that the employee spent 18954
providing services to chartered nonpublic school students under 18955

section 3317.06 of the Revised Code. 18956

Sec. 3317.07. The state board of education shall establish 18957
rules for the purpose of distributing subsidies for the purchase 18958
of school buses under division (E) of section 3317.024 of the 18959
Revised Code. 18960

No school bus subsidy payments shall be paid to any district 18961
unless such district can demonstrate that pupils residing more 18962
than one mile from the school could not be transported without 18963
such additional aid. 18964

The amount paid to a county MR/DD board for buses purchased 18965
for transportation of children in special education programs 18966
operated by the board shall be one hundred per cent of the board's 18967
net cost. 18968

The amount paid to a school district for buses purchased for 18969
transportation of handicapped and nonpublic school pupils shall be 18970
one hundred per cent of the school district's net cost. 18971

The state board of education shall adopt a formula to 18972
determine the amount of payments that shall be distributed to 18973
school districts to purchase school buses for pupils other than 18974
handicapped or nonpublic school pupils. 18975

If any district or MR/DD board obtains bus services for pupil 18976
transportation pursuant to a contract, such district or board may 18977
use payments received under this section to defray the costs of 18978
contracting for bus services in lieu of for purchasing buses. 18979

If the department of education determines that a county MR/DD 18980
board no longer needs a school bus because the board no longer 18981
transports children to a special education program operated by the 18982
board, or if the department determines that a school district no 18983
longer needs a school bus to transport pupils to a particular 18984
nonpublic school or special education program, the department may 18985

reassign a bus that was funded with payments provided pursuant to 18986
this section for the purpose of transporting such pupils. The 18987
department may reassign a bus to a county MR/DD board or school 18988
district that transports children to a special education program 18989
designated in the children's individualized education plans, or to 18990
a school district that transports pupils to a nonpublic school, 18991
and needs an additional school bus. 18992

Sec. 3317.081. (A) Tuition shall be computed in accordance 18993
with this section if: 18994

(1) The tuition is required by division (C)(3)(b) of section 18995
3313.64 of the Revised Code; or 18996

(2) Neither the child nor the child's parent resides in this 18997
state and tuition is required by section 3327.06 of the Revised 18998
Code. 18999

(B) Tuition computed in accordance with this section shall 19000
equal the attendance district's tuition rate computed under 19001
section 3317.08 of the Revised Code plus the amount that district 19002
would have received for the child pursuant to sections 3317.022, 19003
3317.023, and 3317.025 to 3317.0213 of the Revised Code during the 19004
school year had the attendance district been authorized to count 19005
the child in its formula ADM and average daily attendance for that 19006
school year under ~~section~~ sections 3317.03 and 3317.034 of the 19007
Revised Code. 19008

Sec. 3317.09. All moneys distributed to a school district, 19009
including any cooperative education or joint vocational school 19010
district and all moneys distributed to any educational service 19011
center, by the state whether from a state or federal source, shall 19012
be accounted for by the division of school finance of the 19013
department of education. All moneys distributed shall be coded as 19014
to county, school district or educational service center, source, 19015

and other pertinent information, and at the end of each month, a 19016
report of such distribution shall be made by such division of 19017
school finance to the clerk of the senate and the chief 19018
administrative officer of the house of representatives, to the 19019
Ohio legislative service commission to be available for 19020
examination by any member of either house, to each school district 19021
and educational service center, and to the governor. 19022

On or before the first day of September in each year, a copy 19023
of the annual statistical report required in ~~sections~~ section 19024
3319.33 ~~and 3319.34~~ of the Revised Code shall be filed by the 19025
state board of education with the clerk of the senate and the 19026
chief administrative officer of the house of representatives, the 19027
Ohio legislative service commission, the governor, and the auditor 19028
of state. The report shall contain an analysis for the prior 19029
fiscal year on an accrual basis of revenue receipts from all 19030
sources and expenditures for all purposes for each school district 19031
~~and each educational service center~~, including each joint 19032
vocational and cooperative education school district, in the 19033
state. If any board of education ~~or any educational service center~~ 19034
~~governing board~~ fails to make the report required in ~~sections~~ 19035
section 3319.33 ~~and 3319.34~~ of the Revised Code, the 19036
superintendent of public instruction shall be without authority to 19037
distribute funds to that school district or educational service 19038
center pursuant to sections 3317.022 to 3317.0212, 3317.11, 19039
3317.16, 3317.17, or 3317.19 of the Revised Code until such time 19040
as the required reports are filed with all specified officers, 19041
boards, or agencies. 19042

Sec. 3317.10. (A) On or before the first day of March of each 19043
year, the department of job and family services shall certify to 19044
the state board of education the unduplicated number of children 19045
ages five through seventeen residing in each school district and 19046
living in a family that, during the preceding October, had family 19047

income not exceeding the federal poverty guidelines as defined in 19048
section 5101.46 of the Revised Code and participated in one of the 19049
following: 19050

(1) Ohio works first; 19051

(2) The food stamp program; 19052

(3) The medical assistance program, including the healthy 19053
start program, established under Chapter 5111. of the Revised 19054
Code; 19055

(4) The children's health insurance program part I 19056
established under section 5101.50 of the Revised Code; 19057

(5) The disability financial assistance program established 19058
under Chapter 5115. of the Revised Code; 19059

(6) The disability medical assistance program established 19060
under Chapter 5115. of the Revised Code. 19061

The department of job and family services shall certify this 19062
information according to the school district of residence for each 19063
child. Except as provided under division (B) of this section, the 19064
number of children so certified in any year shall be used by the 19065
department of education in calculating the distribution of moneys 19066
for the ensuing fiscal year as provided in section 3317.029 of the 19067
Revised Code. 19068

(B) Upon the transfer of part of the territory of one school 19069
district to the territory of one or more other school districts, 19070
the department of education may adjust the number of children 19071
certified under division (A) of this section for any district 19072
gaining or losing territory in such a transfer in order to take 19073
into account the effect of the transfer on the number of such 19074
children who reside in the district. Within sixty days of receipt 19075
of a request for information from the department of education, the 19076
department of job and family services shall provide any 19077

information the department of education determines is necessary to 19078
make such adjustments. The department of education may use the 19079
adjusted number for any district for the applicable fiscal year, 19080
in lieu of the number certified for the district for that fiscal 19081
year under division (A) of this section, in the calculation of the 19082
distribution of moneys provided in section 3317.029 of the Revised 19083
Code. 19084

Sec. 3317.11. (A) As used in this section: 19085

(1) "Client school district" means a city or exempted village 19086
school district that has entered into an agreement under section 19087
3313.843 of the Revised Code to receive any services from an 19088
educational service center. 19089

(2) "Service center ADM" means the sum of the total student 19090
counts of all local school districts within an educational service 19091
center's territory and all of the service center's client school 19092
districts. 19093

(3) "Total student count" has the same meaning as in section 19094
3301.011 of the Revised Code. 19095

(B)(1) The governing board of each educational service center 19096
shall provide supervisory services to each local school district 19097
within the service center's territory. Each city or exempted 19098
village school district that enters into an agreement under 19099
section 3313.843 of the Revised Code for a governing board to 19100
provide any services also is considered to be provided supervisory 19101
services by the governing board. Except as provided in division 19102
(B)(2) of this section, the supervisory services shall not exceed 19103
one supervisory teacher for the first fifty classroom teachers 19104
required to be employed in the districts, as calculated under 19105
section 3317.023 of the Revised Code, and one for each additional 19106
one hundred required classroom teachers, as so calculated. 19107

The supervisory services shall be financed annually through 19108
supervisory units. Except as provided in division (B)(2) of this 19109
section, the number of supervisory units assigned to each district 19110
shall not exceed one unit for the first fifty classroom teachers 19111
required to be employed in the district, as calculated under 19112
section 3317.023 of the Revised Code, and one for each additional 19113
one hundred required classroom teachers, as so calculated. The 19114
cost of each supervisory unit shall be the sum of: 19115

(a) The minimum salary prescribed by section 3317.13 of the 19116
Revised Code for the licensed supervisory employee of the 19117
governing board; 19118

(b) An amount equal to fifteen per cent of the salary 19119
prescribed by section 3317.13 of the Revised Code; 19120

(c) An allowance for necessary travel expenses, limited to 19121
the lesser of two hundred twenty-three dollars and sixteen cents 19122
per month or two thousand six hundred seventy-eight dollars per 19123
year. 19124

(2) If a majority of the boards of education, or 19125
superintendents acting on behalf of the boards, of the local and 19126
client school districts receiving services from the educational 19127
service center agree to receive additional supervisory services 19128
and to pay the cost of a corresponding number of supervisory units 19129
in excess of the services and units specified in division (B)(1) 19130
of this section, the service center shall provide the additional 19131
services as agreed to by the majority of districts to, and the 19132
department of education shall apportion the cost of the 19133
corresponding number of additional supervisory units pursuant to 19134
division (B)(3) of this section among, all of the service center's 19135
local and client school districts. 19136

(3) The department shall apportion the total cost for all 19137
supervisory units among the service center's local and client 19138

school districts based on each district's total student count. The 19139
department shall deduct each district's apportioned share pursuant 19140
to division (E) of section 3317.023 of the Revised Code and pay 19141
the apportioned share to the service center. 19142

(C) The department annually shall deduct from each local and 19143
client school district of each educational service center, 19144
pursuant to division (E) of section 3317.023 of the Revised Code, 19145
and pay to the service center an amount equal to six dollars and 19146
fifty cents times the school district's total student count. The 19147
board of education, or the superintendent acting on behalf of the 19148
board, of any local or client school district may agree to pay an 19149
amount in excess of six dollars and fifty cents per student in 19150
total student count. If a majority of the boards of education, or 19151
superintendents acting on behalf of the boards, of the local 19152
school districts within a service center's territory approve an 19153
amount in excess of six dollars and fifty cents per student in 19154
total student count, the department shall deduct the approved 19155
excess per student amount from all of the local school districts 19156
within the service center's territory and pay the excess amount to 19157
the service center. 19158

(D) The department shall pay each educational service center 19159
the amounts due to it from school districts pursuant to contracts, 19160
compacts, or agreements under which the service center furnishes 19161
services to the districts or their students. In order to receive 19162
payment under this division, an educational service center shall 19163
furnish either a copy of the contract, compact, or agreement 19164
clearly indicating the amounts of the payments, or a written 19165
statement that clearly indicates the payments owed and is signed 19166
by the superintendent or treasurer of the responsible school 19167
district. The amounts paid to service centers under this division 19168
shall be deducted from payments to school districts pursuant to 19169
division (K)(3) of section 3317.023 of the Revised Code. 19170

(E) Each school district's deduction under this section and divisions (E) and (K)(3) of section 3317.023 of the Revised Code shall be made from the total payment computed for the district under this chapter, after making any other adjustments in that payment required by law. 19171
19172
19173
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(F)(1) Except as provided in division (F)(2) of this section, the department annually shall pay the governing board of each educational service center state funds equal to thirty-seven dollars times its service center ADM. 19176
19177
19178
19179

(2) The department annually shall pay state funds equal to forty dollars and fifty-two cents times the service center ADM to each educational service center comprising territory that 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 under section 3311.053 of the Revised Code to form the present center. 19180
19181
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(G) 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 career-technical education from the educational service center, unless these educational services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division (K)(3) of section 3317.023 of the Revised Code. 19187
19188
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(H) An educational service center: 19197

(1) May provide special education and career-technical education to students in its local or client school districts; 19198
19199

(2) Is eligible for transportation funding under division (J) of section 3317.024 of the Revised Code and for state subsidies 19200
19201

for the purchase of school buses under section 3317.07 of the 19202
Revised Code; 19203

(3) May apply for and receive gifted education units and 19204
provide gifted education services to students in its local or 19205
client school districts; 19206

(4) May conduct driver education for high school students in 19207
accordance with Chapter 4508. of the Revised Code. 19208

Sec. 3317.16. (A) As used in this section: 19209

(1) "State share percentage" means the percentage calculated 19210
for a joint vocational school district as follows: 19211

(a) Calculate the state base cost funding amount for the 19212
district under division (B) of this section. If the district would 19213
not receive any base cost funding for that year under that 19214
division, the district's state share percentage is zero. 19215

(b) If the district would receive base cost funding under 19216
that division, divide that base cost amount by an amount equal to 19217
the following: 19218

cost-of-doing-business factor X 19219

the formula amount X 19220

~~the greater of formula ADM or~~ 19221

~~three year average formula ADM~~ 19222

average daily attendance 19223

The resultant number is the district's state share 19224
percentage. 19225

(2) The "total special education weight" for a joint 19226
vocational school district shall be calculated in the same manner 19227
as prescribed in division (B)(1) of section 3317.022 of the 19228
Revised Code. 19229

(3) The "total vocational education weight" for a joint 19230
vocational school district shall be calculated in the same manner 19231

as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 19232
19233

(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year. 19234
19235
19236
19237

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 19238
19239
19240

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 19241
19242

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula: 19243
19244
19245

(cost-of-doing-business factor X
formula amount X ~~the greater of formula
ADM or three-year average formula ADM~~
average daily attendance) -
(.0005 X total recognized valuation) 19246
19247
19248
19249
19250

If the difference obtained under this division is a negative number, the district's computation shall be zero. 19251
19252

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula: 19253
19254
19255
19256

state share percentage X formula amount X
total vocational education weight 19257
19258

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula: 19259
19260
19261

state share percentage X .05 X 19262

the formula amount X the sum of 19263
categories one and two vocational 19264
education ADM 19265

In any fiscal year, a joint vocational school district 19266
receiving funds under division (C)(2) of this section, or through 19267
a transfer of funds pursuant to division (L) of section 3317.023 19268
of the Revised Code, shall spend those funds only for the purposes 19269
that the department designates as approved for vocational 19270
education associated services expenses, which may include such 19271
purposes as apprenticeship coordinators, coordinators for other 19272
vocational education services, vocational evaluation, and other 19273
purposes designated by the department. The department may deny 19274
payment under division (C)(2) of this section to any district that 19275
the department determines is not operating those services or is 19276
using funds paid under division (C)(2) of this section, or through 19277
a transfer of funds pursuant to division (L) of section 3317.023 19278
of the Revised Code, for other purposes. 19279

(D)(1) The department shall compute and distribute state 19280
special education and related services additional weighted costs 19281
funds to each joint vocational school district in accordance with 19282
the following formula: 19283

state share percentage X formula amount X 19284
total special education weight 19285

(2)(a) As used in this division, the "personnel allowance" 19286
means thirty thousand dollars in fiscal years 2002 ~~and~~ 2003, 19287
2004, and 2005. 19288

(b) For the provision of speech services to students, 19289
including students who do not have individualized education 19290
programs prepared for them under Chapter 3323. of the Revised 19291
Code, and for no other purpose, the department shall pay each 19292
joint vocational school district an amount calculated under the 19293
following formula: 19294

(formula ADM divided by 2000) X the personnel 19295
allowance X state share percentage 19296

(3) In any fiscal year, a joint vocational school district 19297
shall spend for purposes that the department designates as 19298
approved for special education and related services expenses at 19299
least the amount calculated as follows: 19300

(cost-of-doing-business factor X formula amount 19301
X the sum of categories one through 19302
six special education ADM) + 19303
(total special education weight X 19304
formula amount) 19305

The purposes approved by the department for special education 19306
expenses shall include, but shall not be limited to, compliance 19307
with state rules governing the education of handicapped children, 19308
providing services identified in a student's individualized 19309
education program as defined in section 3323.01 of the Revised 19310
Code, and the portion of the district's overall administrative and 19311
overhead costs that are attributable to the district's special 19312
education student population. 19313

The department shall require joint vocational school 19314
districts to report data annually to allow for monitoring 19315
compliance with division (D)(3) of this section. The department 19316
shall annually report to the governor and the general assembly the 19317
amount of money spent by each joint vocational school district for 19318
special education and related services. 19319

~~(E)(2)~~(1) If a joint vocational school district's costs for a 19320
fiscal year for a student in its categories ~~one~~ two through six 19321
special education ADM exceed the threshold catastrophic cost for 19322
serving the student, as specified in division (C)(3)(b) of section 19323
3317.022 of the Revised Code, the district may submit to the 19324
superintendent of public instruction documentation, as prescribed 19325
by the superintendent, of all of its costs for that student. Upon 19326

submission of documentation for a student of the type and in the 19327
manner prescribed, the department shall pay to the district an 19328
amount equal to the sum of the following: 19329

(a) One-half of the district's costs for the student in 19330
excess of the threshold catastrophic cost; 19331

(b) The product of one-half of the district's costs for the 19332
student in excess of the threshold catastrophic cost multiplied by 19333
the district's state share percentage. 19334

(2) The district shall only report under division (E)(1) of 19335
this section, and the department shall only pay for, the costs of 19336
educational expenses and the related services provided to the 19337
student in accordance with the student's individualized education 19338
program. Any legal fees, court costs, or other costs associated 19339
with any cause of action relating to the student may not be 19340
included in the amount. 19341

(F) Each fiscal year, the department shall pay each joint 19342
vocational school district an amount for adult technical and 19343
vocational education and specialized consultants. 19344

(G)(1) A joint vocational school district's local share of 19345
special education and related services additional weighted costs 19346
equals: 19347

(1 - state share percentage) X 19348
Total special education weight X 19349
the formula amount 19350

(2) For each handicapped student receiving special education 19351
and related services under an individualized education program, as 19352
defined in section 3323.01 of the Revised Code, at a joint 19353
vocational district, the resident district or, if the student is 19354
enrolled in a community school, the community school shall be 19355
responsible for the amount of any costs of providing those special 19356
education and related services to that student that exceed the sum 19357

of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section. 19358
19359

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: 19360
19361
19362

(a) The product of the formula amount times the cost-of-doing-business factor; 19363
19364

(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code; 19365
19366

(c) Any funds paid under division (E) of this section for the student; 19367
19368

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section. 19369
19370
19371
19372

(3) The board of education of the joint vocational school district shall report the excess costs calculated under division (G)(2) of this section to the department of education. 19373
19374
19375

(4) The department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable: 19376
19377
19378
19379
19380

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code. 19381
19382
19383
19384

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code. 19385
19386
19387

(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the department shall pay the district an additional amount equal to the difference between those two amounts.

Sec. 3318.01. As used in sections 3318.01 to 3318.20 of the Revised Code:

(A) "Ohio school facilities commission" means the commission created pursuant to section 3318.30 of the Revised Code.

(B) "Classroom facilities" means rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete educational program, and may include space within which a child day-care facility or a community resource center is housed. "Classroom facilities" includes any space necessary for the operation of a vocational education program for secondary students in any school district that operates such a program.

(C) "Project" means a project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities, to be used for housing the applicable school district and its functions.

(D) "School district" means a local, exempted village, or city school district as such districts are defined in Chapter

3311. of the Revised Code, acting as an agency of state 19418
government, performing essential governmental functions of state 19419
government pursuant to sections 3318.01 and 3318.20 of the Revised 19420
Code. 19421

For purposes of assistance provided under sections 3318.40 to 19422
3318.45 of the Revised Code, the term "school district" as used in 19423
this section and in divisions (A), (C), and (D) of section 3318.03 19424
and in sections 3318.031, 3318.033, 3318.042, 3318.07, 3318.08, 19425
3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 19426
3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the 19427
Revised Code means a joint vocational school district established 19428
pursuant to section 3311.18 of the Revised Code. 19429

(E) "School district board" means the board of education of a 19430
school district. 19431

(F) "Net bonded indebtedness" means the difference between 19432
the sum of the par value of all outstanding and unpaid bonds and 19433
notes which a school district board is obligated to pay, any 19434
amounts the school district is obligated to pay under 19435
lease-purchase agreements entered into under section 3313.375 of 19436
the Revised Code, and the par value of bonds authorized by the 19437
electors but not yet issued, the proceeds of which can lawfully be 19438
used for the project, and the amount held in the sinking fund and 19439
other indebtedness retirement funds for their redemption. Notes 19440
issued for school buses in accordance with section 3327.08 of the 19441
Revised Code, notes issued in anticipation of the collection of 19442
current revenues, and bonds issued to pay final judgments shall 19443
not be considered in calculating the net bonded indebtedness. 19444

"Net bonded indebtedness" does not include indebtedness 19445
arising from the acquisition of land to provide a site for 19446
classroom facilities constructed, acquired, or added to pursuant 19447
to sections 3318.01 to 3318.20 of the Revised Code. 19448

(G) "Board of elections" means the board of elections of the county containing the most populous portion of the school district.

(H) "County auditor" means the auditor of the county in which the greatest value of taxable property of such school district is located.

(I) "Tax duplicates" means the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(J) "Required level of indebtedness" means:

(1) In the case of districts in the first percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code.

(2) In the case of districts ranked in a subsequent percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project minus one)].

(K) "Required percentage of the basic project costs" means one per cent of the basic project costs times the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project.

(L) "Basic project cost" means a cost amount determined in accordance with rules adopted under section 111.15 of the Revised Code by the Ohio school facilities commission. The basic project

cost calculation shall take into consideration the square footage 19479
and cost per square foot necessary for the grade levels to be 19480
housed in the classroom facilities, the variation across the state 19481
in construction and related costs, the cost of the installation of 19482
site utilities and site preparation, the cost of demolition of all 19483
or part of any existing classroom facilities that are abandoned 19484
under the project, the cost of insuring the project until it is 19485
completed, any contingency reserve amount prescribed by the 19486
commission under section 3318.086 of the Revised Code, and the 19487
professional planning, administration, and design fees that a 19488
district may have to pay to undertake a classroom facilities 19489
project. 19490

For a joint vocational school district that receives 19491
assistance under sections 3318.40 to 3318.45 of the Revised Code, 19492
the basic project cost calculation for a project under those 19493
sections shall also take into account the types of laboratory 19494
spaces and program square footages needed for the vocational 19495
education programs for high school students offered by the school 19496
district. 19497

"Basic project cost" also includes the value of classroom 19498
facilities ~~authorized in a pre-existing bond issue~~ as described in 19499
section 3318.033 of the Revised Code. 19500

(M)(1) Except for a joint vocational school district that 19501
receives assistance under sections 3318.40 to 3318.45 of the 19502
Revised Code, a "school district's portion of the basic project 19503
cost" means the amount determined under section 3318.032 of the 19504
Revised Code. 19505

(2) For a joint vocational school district that receives 19506
assistance under sections 3318.40 to 3318.45 of the Revised Code, 19507
a "school district's portion of the basic project cost" means the 19508
amount determined under division (C) of section 3318.42 of the 19509
Revised Code. 19510

(N) "Child day-care facility" means space within a classroom facility in which the needs of infants, toddlers, preschool children, and school children are provided for by persons other than the parent or guardian of such children for any part of the day, including persons not employed by the school district operating such classroom facility.

(O) "Community resource center" means space within a classroom facility in which comprehensive services that support the needs of families and children are provided by community-based social service providers.

(P) "Valuation" means the total value of all property in the district as listed and assessed for taxation on the tax duplicates.

(Q) "Percentile" means the percentile in which the district is ranked pursuant to division (D) of section 3318.011 of the Revised Code.

(R) "Installation of site utilities" means the installation of a site domestic water system, site fire protection system, site gas distribution system, site sanitary system, site storm drainage system, and site telephone and data system.

(S) "Site preparation" means the earthwork necessary for preparation of the building foundation system, the paved pedestrian and vehicular circulation system, playgrounds on the project site, and lawn and planting on the project site.

Sec. 3318.024. In any fiscal year, any funds appropriated to the Ohio school facilities commission for classroom facilities projects under this chapter in the previous fiscal year that are not spent or encumbered, or for which encumbrance has been released under section 3318.05 of the Revised Code, shall be allocated by the commission only for projects under sections

3318.01 to 3318.20 of the Revised Code, subject to appropriation 19541
by the general assembly. 19542

Sec. 3318.03. (A) Before conducting an on-site evaluation of 19543
a school district under section 3318.02 of the Revised Code, at 19544
the request of the district board of education, the Ohio school 19545
facilities commission shall examine any classroom facilities needs 19546
assessment that has been conducted by the district and any master 19547
plan developed for meeting the facility needs of the district. 19548

(B) Upon conducting the on-site evaluation under section 19549
3318.02 of the Revised Code, the Ohio school facilities commission 19550
shall make a determination of all of the following: 19551

(1) The needs of the school district for additional classroom 19552
facilities; 19553

(2) The number of classroom facilities to be included in a 19554
project, including classroom facilities ~~authorized by a bond issue~~ 19555
described in section 3318.033 of the Revised Code, and the basic 19556
project cost of constructing, acquiring, reconstructing, or making 19557
additions to each such facility; 19558

(3) The amount of such cost that the school district can 19559
supply from available funds, by the issuance of bonds previously 19560
authorized by the electors of the school district the proceeds of 19561
which can lawfully be used for the project, including bonds 19562
authorized by the district's electors as described in section 19563
3318.033 of the Revised Code, and by the issuance of bonds under 19564
section 3318.05 of the Revised Code; 19565

(4) The remaining amount of such cost that shall be supplied 19566
by the state; 19567

(5) The amount of the state's portion to be encumbered in 19568
accordance with section 3318.11 of the Revised Code in the current 19569
and subsequent fiscal bienniums from funds appropriated for 19570

purposes of sections 3318.01 to 3318.20 of the Revised Code. 19571

(C) The commission shall make a determination in favor of 19572
constructing, acquiring, reconstructing, or making additions to a 19573
classroom facility only upon evidence that the proposed project 19574
conforms to sound educational practice, that it is in keeping with 19575
the orderly process of school district reorganization and 19576
consolidation, and that the actual or projected enrollment in each 19577
classroom facility proposed to be included in the project is at 19578
least three hundred fifty pupils. Exceptions shall be authorized 19579
only in those districts where topography, sparsity of population, 19580
and other factors make larger schools impracticable. 19581

(D) Sections 125.81 and 153.04 of the Revised Code shall not 19582
apply to classroom facilities constructed under either sections 19583
3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised 19584
Code. 19585

Sec. 3318.033. ~~If the electors of a school district have~~ 19586
~~approved the issuance of bonds for the acquisition of classroom~~ 19587
~~facilities within eighteen~~ twenty-four months prior to ~~the a~~ 19588
school district board's receipt of a notification by the Ohio 19589
school facilities commission that the school district is eligible 19590
for state assistance under either sections 3318.01 to 3318.20 or 19591
sections 3318.40 to 3318.45 of the Revised Code the electors of 19592
the school district have approved the issuance of bonds in any 19593
amount for the acquisition of classroom facilities or the school 19594
district board has spent other school district resources in an 19595
amount of not less than one million dollars for the acquisition of 19596
classroom facilities, and if the classroom facilities supported by 19597
that bond measure or acquired with other school district resources 19598
comply with the commission's design specifications for such a 19599
project, the commission shall include the value of those classroom 19600
facilities in the basic project cost of the school district's 19601

project determined under section 3318.03 or division (A)(1)(a) of 19602
section 3318.41 of the Revised Code and shall deduct the amount of 19603
the bonds authorized in that bond measure or the amount of other 19604
school district resources spent from the amount of the school 19605
district's portion of the basic project cost as determined under 19606
section 3318.032 or 3318.42 of the Revised Code. 19607

A school district board may combine the credit for previously 19608
issued bonds authorized under this section along with any local 19609
donated contribution, as described under section 3318.084 of the 19610
Revised Code, in meeting the school district's obligation to raise 19611
its portion of the basic project cost of its classroom facilities 19612
project under sections 3318.01 to 3318.20 or sections 3318.40 to 19613
3318.45 of the Revised Code. 19614

Sec. 3318.052. At any time after the electors of a school 19615
district have approved either or both a property tax levied under 19616
section 5705.21 or 5705.218 of the Revised Code for the purpose of 19617
general ongoing permanent improvements or a school district income 19618
tax levied under Chapter 5748. of the Revised Code, the proceeds 19619
of which, pursuant to the ballot measures approved by the 19620
electors, are not so restricted that they cannot be used to pay 19621
the costs of a project or maintaining classroom facilities, the 19622
school district board may: 19623

(A) Within one year following the date of the certification 19624
of the conditional approval of the school district's classroom 19625
facilities project by the Ohio school facilities commission, enter 19626
into a written agreement with the commission, which may be part of 19627
an agreement entered into under section 3318.08 of the Revised 19628
Code, and in which the school district board covenants and agrees 19629
to do one or both of the following: 19630

(1) Apply a specified amount of available proceeds of that 19631
property tax levy, of that school district income tax, or of 19632

securities issued under this section, or of proceeds from any two 19633
or more of those sources, to pay all or part of the district's 19634
portion of the basic project cost of its classroom facilities 19635
project; 19636

(2) Apply available proceeds of either or both a property tax 19637
levied under section 5705.21 or 5705.218 of the Revised Code in 19638
effect for a continuing period of time, or of a school district 19639
income tax levied under Chapter 5748. of the Revised Code in 19640
effect for a continuing period of time to the payment of costs of 19641
maintaining the classroom facilities. 19642

(B) Receive, as a credit against the amount of bonds required 19643
under sections 3318.05 and 3318.06 of the Revised Code, to be 19644
approved by the electors of the district and issued by the 19645
district board for the district's portion of the basic project 19646
cost of its classroom facilities project in order for the district 19647
to receive state assistance for the project, an amount equal to 19648
the specified amount that the district board covenants and agrees 19649
with the commission to apply as set forth in division (A)(1) of 19650
this section; 19651

(C) Receive, as a credit against the amount of the tax levy 19652
required under sections 3318.05 and 3318.06 of the Revised Code, 19653
to be approved by the electors of the district to pay the costs of 19654
maintaining the classroom facilities in order to receive state 19655
assistance for the classroom facilities project, an amount 19656
equivalent to the specified amount of proceeds the school district 19657
board covenants and agrees with the commission to apply as 19658
referred to in division (A)(2) of this section; 19659

(D) Apply proceeds of either or both a school district income 19660
tax levied under Chapter 5748. of the Revised Code that may 19661
lawfully be used to pay the costs of a classroom facilities 19662
project or of a tax levied under section 5705.21 or 5705.218 of 19663
the Revised Code to the payment of debt charges on and financing 19664

costs related to securities issued under this section; 19665

(E) Issue securities to provide moneys to pay all or part of 19666
the district's portion of the basic project cost of its classroom 19667
facilities project in accordance with an agreement entered into 19668
under division (A) of this section. Securities issued under this 19669
section shall be Chapter 133. securities and may be issued as 19670
general obligation securities or issued in anticipation of a 19671
school district income tax or as property tax anticipation notes 19672
under section 133.24 of the Revised Code. The district board's 19673
resolution authorizing the issuance and sale of general obligation 19674
securities under this section shall conform to the applicable 19675
requirements of section 133.22 or 133.23 of the Revised Code. 19676
Securities issued under this section shall have principal payments 19677
during each year after the year of issuance over a period of not 19678
more than twenty-three years and, if so determined by the district 19679
board, during the year of issuance. Securities issued under this 19680
section shall not be included in the calculation of net 19681
indebtedness of the district under section 133.06 of the Revised 19682
Code, if the resolution of the district board authorizing their 19683
issuance and sale includes covenants to appropriate annually from 19684
lawfully available proceeds of a property tax levied under section 19685
5705.21 or 5705.218 of the Revised Code and no school district 19686
income tax levied under Chapter 5748. of the Revised Code and to 19687
continue to levy and collect the tax in amounts necessary to pay 19688
the debt charges on and financing costs related to the securities 19689
as they become due. No property tax levied under section 5705.21 19690
or 5705.218 of the Revised Code or of a school district income tax 19691
levied under Chapter 5748. of the Revised Code that is pledged, or 19692
that the school district board has covenanted to levy, collect, 19693
and appropriate annually, to pay the debt charges on and financing 19694
costs related to securities issued under this section shall be 19695
repealed while those securities are outstanding. If such a tax is 19696
reduced by the electors of the district or by the district board 19697

while those securities are outstanding, the school district board 19698
shall continue to levy and collect the tax under the authority of 19699
the original election authorizing the tax at a rate in each year 19700
that the board reasonably estimates will produce an amount in that 19701
year equal to the debt charges on the securities in that year. 19702

No state moneys shall be released for a project to which this 19703
section applies until the proceeds of the tax securities issued 19704
under this section that are dedicated for the payment of the 19705
district portion of the basic project cost of its classroom 19706
facilities project are first deposited into the district's project 19707
construction fund. 19708

Sec. 3318.34. The Ohio school facilities commission shall not 19709
release any state funds to a school district for a project under 19710
this chapter until the school district has complied with division 19711
(G) of section 3313.41 of the Revised Code. 19712

Sec. 3 3318.364. The board of education of any school 19713
district whose the electors of which have approved a bond issue or 19714
tax levy for the construction of or additions or major repair to a 19715
classroom facility within ~~eighteen~~ twenty-four months prior to 19716
September 14, 2000, or that has spent other school district 19717
resources in an amount of not less than one million dollars for 19718
the acquisition of classroom facilities within twenty-four months 19719
prior to September 14, 2000, may apply all or a portion of the 19720
expenditures of the proceeds from such bond issue or tax levy, or 19721
the amount of other school district resources as described in this 19722
section, as local resources for ~~purposes~~ the purpose of the 19723
district's participation in the ~~School Building Assistance~~ 19724
~~Expedited Local Partnership Program~~ school building assistance 19725
~~expedited local partnership program~~ under section 3318.36 of the 19726
Revised Code. The Ohio ~~School Facilities Commission~~ school 19727
~~facilities commission~~, upon request of such a school district 19728

board, shall conduct a district needs assessment under section 19729
3318.36 of the Revised Code and shall determine whether such 19730
project meets all or a portion of the district's assessed needs 19731
and whether the design of all or a portion of the project complies 19732
with design specifications of the ~~Commission~~ commission as 19733
required under division (B)(3) of section 3318.36 of the Revised 19734
Code. 19735

The ~~Commission~~ commission shall approve as local resources 19736
the district's expenditures for that portion of the project 19737
determined to meet the district's assessed needs and to comply 19738
with the ~~Commission's~~ commission's design specifications. 19739

Sec. 3318.37. (A)(1) As used in this section: 19740

~~(1)~~(a) "Low wealth school district" means a school district 19741
in the first through fiftieth percentiles as determined under 19742
section 3318.011 of the Revised Code. 19743

~~(2)~~(b) A "school district with an exceptional need for 19744
immediate classroom facilities assistance" means a low wealth 19745
school district with an exceptional need for new facilities in 19746
order to protect the health and safety of all or a portion of its 19747
students. ~~School~~ 19748

(2) School districts reasonably expected to be eligible for 19749
state assistance under sections 3318.01 to 3318.20 of the Revised 19750
Code within three fiscal years after the year of the application 19751
for assistance under this section ~~is being considered by the Ohio~~ 19752
~~school facilities commission, and school districts that~~ 19753
~~participate in the school building assistance expedited local~~ 19754
~~partnership program under section 3318.36 of the Revised Code~~ 19755
shall not be eligible for assistance under this section. 19756

(B)(1) There is hereby established the exceptional needs 19757
school facilities assistance program. Under the program, the Ohio 19758

school facilities commission may set aside funds from the moneys 19759
annually appropriated to it for classroom facilities assistance 19760
projects ~~up to twenty five per cent~~ for assistance to school 19761
districts with exceptional needs for immediate classroom 19762
facilities assistance. 19763

(2)(a) After consulting with education and construction 19764
experts, the commission shall adopt guidelines for identifying 19765
school districts with an exceptional need for immediate classroom 19766
facilities assistance. 19767

(b) The guidelines shall include application forms and 19768
instructions for school districts ~~that believe they have an~~ 19769
~~exceptional need for immediate classroom facilities to use in~~ 19770
applying for assistance under this section. 19771

(3) The commission shall evaluate the classroom facilities, 19772
and the need for replacement classroom facilities from the 19773
applications received under this section. The commission, 19774
utilizing the guidelines adopted under division (B)(2)(a) of this 19775
section, shall prioritize the school districts to be assessed. 19776

Notwithstanding section 3318.02 of the Revised Code, the 19777
commission may conduct on-site evaluation of the school districts 19778
prioritized under this section and approve and award funds until 19779
such time as all funds set aside under division (B)(1) of this 19780
section have been encumbered ~~under section 3318.04 of the Revised~~ 19781
~~Code. However, the commission need not conduct the evaluation of~~ 19782
facilities if the commission determines that a district's 19783
assessment conducted under section 3318.36 of the Revised Code is 19784
sufficient for purposes of this section. 19785

(4) Notwithstanding division (A) of section 3318.05 of the 19786
Revised Code, the school district's portion of the basic project 19787
cost under this section shall be the "required percentage of the 19788
basic project costs," as defined in division (K) of section 19789

3318.01 of the Revised Code. 19790

(5) Except as otherwise specified in this section, any 19791
project undertaken with assistance under this section shall comply 19792
with all provisions of sections 3318.01 to 3318.20 of the Revised 19793
Code. A school district may receive assistance under sections 19794
3318.01 to 3318.20 of the Revised Code for the remainder of the 19795
district's classroom facilities needs as assessed under this 19796
section when the district is eligible for such assistance pursuant 19797
to section 3318.02 of the Revised Code, but any classroom facility 19798
constructed with assistance under this section shall not be 19799
included in a district's project at that time unless the 19800
commission determines the district has experienced the increased 19801
enrollment specified in division (B)(1) of section 3318.04 of the 19802
Revised Code. 19803

(C) No school district shall receive assistance under this 19804
section for a classroom facility that has been included in the 19805
discrete part of the district's classroom facilities needs 19806
identified and addressed in the district's project pursuant to an 19807
agreement entered into under section 3318.36 of the Revised Code. 19808

Sec. 3318.41. (A)(1) The Ohio school facilities commission 19809
annually shall assess the classroom facilities needs of the number 19810
of joint vocational school districts that the commission 19811
reasonably expects to be able to provide assistance to in a fiscal 19812
year, based on the amount set aside for that fiscal year under 19813
division (B) of section 3318.40 of the Revised Code and the order 19814
of priority prescribed in division (B) of section 3318.42 of the 19815
Revised Code, except that in fiscal year 2004 the commission shall 19816
conduct at least the five assessments prescribed in division (E) 19817
of section 3318.40 of the Revised Code. 19818

Upon conducting an assessment of the classroom facilities 19819
needs of a school district, the commission shall make a 19820

determination of all of the following: 19821

(a) The number of classroom facilities to be included in a 19822
project, including classroom facilities ~~authorized by a bond issue~~ 19823
described in section 3318.033 of the Revised Code, and the basic 19824
project cost of acquiring the classroom facilities included in the 19825
project. The number of facilities and basic project cost shall be 19826
determined in accordance with the specifications adopted under 19827
section 3318.311 of the Revised Code except to the extent that 19828
compliance with such specifications is waived by the commission 19829
pursuant to the rule of the commission adopted under division (F) 19830
of section 3318.40 of the Revised Code. 19831

(b) The school district's portion of the basic project cost 19832
as determined under division (C) of section 3318.42 of the Revised 19833
Code; 19834

(c) The remaining portion of the basic project cost that 19835
shall be supplied by the state; 19836

(d) The amount of the state's portion of the basic project 19837
cost to be encumbered in accordance with section 3318.11 of the 19838
Revised Code in the current and subsequent fiscal bienniums from 19839
funds set aside under division (B) of section 3318.40 of the 19840
Revised Code. 19841

(2) Divisions (A), (C), and (D) of section 3318.03 of the 19842
Revised Code apply to any project under sections 3318.40 to 19843
3318.45 of the Revised Code. 19844

(B)(1) If the commission makes a determination under division 19845
(A) of this section in favor of the acquisition of classroom 19846
facilities for a project under sections 3318.40 to 3318.45 of the 19847
Revised Code, such project shall be conditionally approved. Such 19848
conditional approval shall be submitted to the controlling board 19849
for approval. The controlling board shall immediately approve or 19850
reject the commission's determination, conditional approval, the 19851

amount of the state's portion of the basic project cost, and the 19852
amount of the state's portion of the basic project cost to be 19853
encumbered in the current fiscal biennium. In the event of 19854
approval by the controlling board, the commission shall certify 19855
the conditional approval to the joint vocational school district 19856
board of education and shall encumber the approved funds for the 19857
current fiscal year. 19858

(2) No school district that receives assistance under 19859
sections 3318.40 to 3318.45 of the Revised Code shall have another 19860
such project conditionally approved until the expiration of twenty 19861
years after the school district's prior project was conditionally 19862
approved, unless the school district board demonstrates to the 19863
satisfaction of the commission that the school district has 19864
experienced since conditional approval of its prior project an 19865
exceptional increase in enrollment or program requirements 19866
significantly above the school district's design capacity under 19867
that prior project as determined by rule of the commission. Any 19868
rule adopted by the commission to implement this division shall be 19869
tailored to address the classroom facilities needs of joint 19870
vocational school districts. 19871

(C) In addition to generating the amount of the school 19872
district's portion of the basic project cost as determined under 19873
division (C) of section 3318.42 of the Revised Code, in order for 19874
a school district to receive assistance under sections 3318.40 to 19875
3318.45 of the Revised Code, the school district board shall set 19876
aside school district moneys for the maintenance of the classroom 19877
facilities included in the school district's project in the amount 19878
and manner prescribed in section 3318.43 of the Revised Code. 19879

(D)(1) The conditional approval for a project certified under 19880
division (B)(1) of this section shall lapse and the amount 19881
reserved and encumbered for such project shall be released unless 19882
both of the following conditions are satisfied: 19883

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within one year following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available.

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for

construction of any project under sections 3318.40 to 3318.45 of 19915
the Revised Code shall be conducted in accordance with section 19916
3318.10 of the Revised Code. 19917

(H) The state funds reserved and encumbered and the funds 19918
provided by the school district to pay the basic project cost of a 19919
project under sections 3318.40 to 3318.45 of the Revised Code 19920
shall be spent simultaneously in proportion to the state's and the 19921
school district's respective portions of that basic project cost. 19922

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 19923
Code apply to projects under sections 3318.40 to 3318.45 of the 19924
Revised Code. 19925

Sec. 3319.01. Except in an island school district, where the 19926
superintendent of an educational service center otherwise may 19927
serve as superintendent of the district and except as otherwise 19928
provided for any cooperative education school district pursuant to 19929
division (B)(2) of section 3311.52 or division (B)(3) of section 19930
3311.521 of the Revised Code, the board of education in each 19931
school district and the governing board of each service center 19932
shall, at a regular or special meeting held not later than the 19933
first day of May of the calendar year in which the term of the 19934
superintendent expires, appoint a person possessed of the 19935
qualifications provided in this section to act as superintendent, 19936
for a term not longer than five years beginning the first day of 19937
August and ending on the thirty-first day of July. Such 19938
superintendent is, at the expiration of a current term of 19939
employment, deemed reemployed for a term of one year at the same 19940
salary plus any increments that may be authorized by the board, 19941
unless such board, on or before the first day of March of the year 19942
in which the contract of employment expires, either reemploys the 19943
superintendent for a succeeding term as provided in this section 19944
or gives to the superintendent written notice of its intention not 19945

to reemploy the superintendent. A superintendent may not be 19946
transferred to any other position during the term of the 19947
superintendent's employment or reemployment except by mutual 19948
agreement by the superintendent and the board. If a vacancy occurs 19949
in the office of superintendent, the board shall appoint a 19950
superintendent for a term not to exceed five years from the next 19951
preceding first day of August. 19952

~~Except as otherwise provided in this section, the employment 19953
or reemployment of a superintendent of a local school district 19954
shall be only upon the recommendation of the service center 19955
superintendent, except that a local board of education, by a 19956
three-fourths vote of its full membership, may, after considering 19957
two nominations for the position of local superintendent made by 19958
the service center superintendent, employ or reemploy a person not 19959
so nominated for such position. 19960~~

A board may at any regular or special meeting held during the 19961
period beginning on the first day of January of the calendar year 19962
immediately preceding the year the contract of employment of a 19963
superintendent expires and ending on the first day of March of the 19964
year it expires, reemploy such superintendent for a succeeding 19965
term for not longer than five years, beginning on the first day of 19966
August immediately following the expiration of the 19967
superintendent's current term of employment and ending on the 19968
thirty-first day of July of the year in which such succeeding term 19969
expires. No person shall be appointed to the office of 19970
superintendent of a city, or exempted village school district or a 19971
service center who does not hold a license designated for being a 19972
superintendent issued under section 3319.22 of the Revised Code, 19973
unless such person had been employed as a county, city, or 19974
exempted village superintendent prior to August 1, 1939. No person 19975
shall be appointed to the office of local superintendent who does 19976
not hold a license designated for being a superintendent issued 19977

under section 3319.22 of the Revised Code, unless such person held 19978
or was qualified to hold the position of executive head of a local 19979
school district on September 16, 1957. At the time of making such 19980
appointment or designation of term, such board shall fix the 19981
compensation of the superintendent, which may be increased or 19982
decreased during such term, provided such decrease is a part of a 19983
uniform plan affecting salaries of all employees of the district, 19984
and shall execute a written contract of employment with such 19985
superintendent. 19986

Each board shall adopt procedures for the evaluation of its 19987
superintendent and shall evaluate its superintendent in accordance 19988
with those procedures. An evaluation based upon such procedures 19989
shall be considered by the board in deciding whether to renew the 19990
superintendent's contract. The establishment of an evaluation 19991
procedure shall not create an expectancy of continued employment. 19992
Nothing in this section shall prevent a board from making the 19993
final determination regarding the renewal or failure to renew of a 19994
superintendent's contract. 19995

Termination of a superintendent's contract shall be pursuant 19996
to section 3319.16 of the Revised Code. 19997

A board may establish vacation leave for its superintendent. 19998
Upon the superintendent's separation from employment a board that 19999
has such leave may provide compensation at the superintendent's 20000
current rate of pay for all lawfully accrued and unused vacation 20001
leave to the superintendent's credit at the time of separation, 20002
not to exceed the amount accrued within three years before the 20003
date of separation. In case of the death of a superintendent, such 20004
unused vacation leave as the board would have paid to this 20005
superintendent upon separation shall be paid in accordance with 20006
section 2113.04 of the Revised Code, or to the superintendent's 20007
estate. 20008

The superintendent shall be the executive officer for the 20009

board. ~~Except as otherwise provided in this section for local~~ 20010
~~school districts, the~~ The superintendent shall direct and assign 20011
teachers and other employees of the district or service center, 20012
except as provided in section 3319.04 of the Revised Code; assign 20013
the pupils to the proper schools and grades, provided that the 20014
assignment of a pupil to a school outside of the pupil's district 20015
of residence is approved by the board of the district of residence 20016
of such pupil; and perform such other duties as the board 20017
determines. ~~The service center superintendent shall exercise the~~ 20018
~~responsibilities of this section with regard to the assignment of~~ 20019
~~pupils and teachers for local school districts under the~~ 20020
~~supervision of the service center, except that the board of~~ 20021
~~education of a local school district and the governing board of~~ 20022
~~the educational service center of which the local district is a~~ 20023
~~part may enter into an agreement requiring the local~~ 20024
~~superintendent, instead of the superintendent of the educational~~ 20025
~~service center, to exercise the responsibilities of this section~~ 20026
~~with regard to the assignment of pupils and teachers for the local~~ 20027
~~school district.~~ 20028

The board of education of any school district may contract 20029
with the governing board of the educational service center from 20030
which it otherwise receives services to conduct searches and 20031
recruitment of candidates for the superintendent position 20032
authorized under this section. 20033

Sec. 3319.02. (A)(1) As used in this section, "other 20034
administrator" means ~~either~~ any of the following: 20035

(a) Except as provided in division (A)(2) of this section, 20036
any employee in a position for which a board of education requires 20037
a license designated by rule of the department of education for 20038
being an administrator issued under section 3319.22 of the Revised 20039
Code, including a professional pupil services employee or 20040

administrative specialist or an equivalent of either one who is 20041
not employed as a school counselor and spends less than fifty per 20042
cent of the time employed teaching or working with students; 20043

(b) Any nonlicensed employee whose job duties enable such 20044
employee to be considered as either a "supervisor" or a 20045
"management level employee," as defined in section 4117.01 of the 20046
Revised Code; 20047

(c) A business manager appointed under section 3319.03 of the 20048
Revised Code. 20049

(2) As used in this section, "other administrator" does not 20050
include a superintendent, assistant superintendent, principal, or 20051
assistant principal. 20052

(B) The board of education of each school district and the 20053
governing board of an educational service center may appoint one 20054
or more assistant superintendents and such other administrators as 20055
are necessary. An assistant educational service center 20056
superintendent or service center supervisor employed on a 20057
part-time basis may also be employed by a local board as a 20058
teacher. The board of each city, exempted village, and local 20059
school district shall employ principals for all high schools and 20060
for such other schools as the board designates, and those boards 20061
may appoint assistant principals for any school that they 20062
designate. 20063

(C) In educational service centers and in city ~~and~~, exempted 20064
village, and local school districts, assistant superintendents, 20065
principals, assistant principals, and other administrators shall 20066
only be employed or reemployed in accordance with nominations of 20067
the superintendent, except that a ~~city or exempted village~~ board 20068
of education of a school district or the governing board of a 20069
service center, by a three-fourths vote of its full membership, 20070
may reemploy any assistant superintendent, principal, assistant 20071

principal, or other administrator whom the superintendent refuses 20072
to nominate. ~~In local school districts, assistant superintendents,~~ 20073
~~principals, assistant principals, and other administrators shall~~ 20074
~~only be employed or reemployed in accordance with nominations of~~ 20075
~~the superintendent of the service center of which the local~~ 20076
~~district is a part, except that a local board of education, by a~~ 20077
~~three fourths vote of its full membership, may reemploy any~~ 20078
~~assistant superintendent, principal, assistant principal, or other~~ 20079
~~administrator whom such superintendent refuses to nominate.~~ 20080

The board of education or governing board shall execute a 20081
written contract of employment with each assistant superintendent, 20082
principal, assistant principal, and other administrator it employs 20083
or reemploys. The term of such contract shall not exceed three 20084
years except that in the case of a person who has been employed as 20085
an assistant superintendent, principal, assistant principal, or 20086
other administrator in the district or center for three years or 20087
more, the term of the contract shall be for not more than five 20088
years and, unless the superintendent of the district recommends 20089
otherwise, not less than two years. If the superintendent so 20090
recommends, the term of the contract of a person who has been 20091
employed by the district or service center as an assistant 20092
superintendent, principal, assistant principal, or other 20093
administrator for three years or more may be one year, but all 20094
subsequent contracts granted such person shall be for a term of 20095
not less than two years and not more than five years. When a 20096
teacher with continuing service status becomes an assistant 20097
superintendent, principal, assistant principal, or other 20098
administrator with the district or service center with which the 20099
teacher holds continuing service status, the teacher retains such 20100
status in the teacher's nonadministrative position as provided in 20101
sections 3319.08 and 3319.09 of the Revised Code. 20102

A board of education or governing board may reemploy an 20103

assistant superintendent, principal, assistant principal, or other 20104
administrator at any regular or special meeting held during the 20105
period beginning on the first day of January of the calendar year 20106
immediately preceding the year of expiration of the employment 20107
contract and ending on the last day of March of the year the 20108
employment contract expires. 20109

Except by mutual agreement of the parties thereto, no 20110
assistant superintendent, principal, assistant principal, or other 20111
administrator shall be transferred during the life of a contract 20112
to a position of lesser responsibility. No contract may be 20113
terminated by a board except pursuant to section 3319.16 of the 20114
Revised Code. No contract may be suspended except pursuant to 20115
section 3319.17 or 3319.171 of the Revised Code. The salaries and 20116
compensation prescribed by such contracts shall not be reduced by 20117
a board unless such reduction is a part of a uniform plan 20118
affecting the entire district or center. The contract shall 20119
specify the employee's administrative position and duties as 20120
included in the job description adopted under division (D) of this 20121
section, the salary and other compensation to be paid for 20122
performance of duties, the number of days to be worked, the number 20123
of days of vacation leave, if any, and any paid holidays in the 20124
contractual year. 20125

An assistant superintendent, principal, assistant principal, 20126
or other administrator is, at the expiration of the current term 20127
of employment, deemed reemployed at the same salary plus any 20128
increments that may be authorized by the board, unless such 20129
employee notifies the board in writing to the contrary on or 20130
before the first day of June, or unless such board, on or before 20131
the last day of March of the year in which the contract of 20132
employment expires, either reemploys such employee for a 20133
succeeding term or gives written notice of its intention not to 20134
reemploy the employee. The term of reemployment of a person 20135

reemployed under this paragraph shall be one year, except that if 20136
such person has been employed by the school district or service 20137
center as an assistant superintendent, principal, assistant 20138
principal, or other administrator for three years or more, the 20139
term of reemployment shall be two years. 20140

(D)(1) Each board shall adopt procedures for the evaluation 20141
of all assistant superintendents, principals, assistant 20142
principals, and other administrators and shall evaluate such 20143
employees in accordance with those procedures. The evaluation 20144
based upon such procedures shall be considered by the board in 20145
deciding whether to renew the contract of employment of an 20146
assistant superintendent, principal, assistant principal, or other 20147
administrator. 20148

(2) The evaluation shall measure each assistant 20149
superintendent's, principal's, assistant principal's, and other 20150
administrator's effectiveness in performing the duties included in 20151
the job description and the evaluation procedures shall provide 20152
for, but not be limited to, the following: 20153

(a) Each assistant superintendent, principal, assistant 20154
principal, and other administrator shall be evaluated annually 20155
through a written evaluation process. 20156

(b) The evaluation shall be conducted by the superintendent 20157
or designee. 20158

(c) In order to provide time to show progress in correcting 20159
the deficiencies identified in the evaluation process, the 20160
evaluation process shall be completed as follows: 20161

(i) In any school year that the employee's contract of 20162
employment is not due to expire, at least one evaluation shall be 20163
completed in that year. A written copy of the evaluation shall be 20164
provided to the employee no later than the end of the employee's 20165
contract year as defined by the employee's annual salary notice. 20166

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract

of any assistant superintendent, principal, assistant principal, 20199
or other administrator. However, if a board fails to provide 20200
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 20201
section, or if the board fails to provide at the request of the 20202
employee a meeting as prescribed in division (D)(4) of this 20203
section, the employee automatically shall be reemployed at the 20204
same salary plus any increments that may be authorized by the 20205
board for a period of one year, except that if the employee has 20206
been employed by the district or service center as an assistant 20207
superintendent, principal, assistant principal, or other 20208
administrator for three years or more, the period of reemployment 20209
shall be for two years. 20210

(E) On nomination of the superintendent of a service center a 20211
governing board may employ supervisors who shall be employed under 20212
written contracts of employment for terms not to exceed five years 20213
each. Such contracts may be terminated by a governing board 20214
pursuant to section 3319.16 of the Revised Code. Any supervisor 20215
employed pursuant to this division may terminate the contract of 20216
employment at the end of any school year after giving the board at 20217
least thirty days' written notice prior to such termination. On 20218
the recommendation of the superintendent the contract or contracts 20219
of any supervisor employed pursuant to this division may be 20220
suspended for the remainder of the term of any such contract 20221
pursuant to section 3319.17 or 3319.171 of the Revised Code. 20222

(F) A board may establish vacation leave for any individuals 20223
employed under this section. Upon such an individual's separation 20224
from employment, a board that has such leave may compensate such 20225
an individual at the individual's current rate of pay for all 20226
lawfully accrued and unused vacation leave credited at the time of 20227
separation, not to exceed the amount accrued within three years 20228
before the date of separation. In case of the death of an 20229
individual employed under this section, such unused vacation leave 20230

as the board would have paid to the individual upon separation 20231
under this section shall be paid in accordance with section 20232
2113.04 of the Revised Code, or to the estate. 20233

(G) The board of education of any school district may 20234
contract with the governing board of the educational service 20235
center from which it otherwise receives services to conduct 20236
searches and recruitment of candidates for assistant 20237
superintendent, principal, assistant principal, and other 20238
administrator positions authorized under this section. 20239

Sec. 3319.03. The board of education of each city, exempted 20240
village, and local school district may create the position of 20241
business manager. The board shall ~~elect~~ appoint such business 20242
manager who shall serve ~~for a term not to exceed four years unless~~ 20243
~~earlier removed for cause pursuant to a contract in accordance~~ 20244
~~with section 3319.02 of the Revised Code. A vacancy in this office~~ 20245
~~shall be filled only for the unexpired term thereof.~~ In the 20246
discharge of all ~~his~~ official duties, the business manager may be 20247
directly responsible to the board, or to the superintendent of 20248
schools, as the board directs at the time of ~~election~~ appointment 20249
to the position. Where such business manager is responsible to the 20250
superintendent ~~he~~ the business manager shall be appointed by the 20251
superintendent and confirmed by the board. 20252

No board of education shall ~~elect~~ appoint or confirm as 20253
business manager any person who does not hold a valid business 20254
manager's license issued under section 3301.074 of the Revised 20255
Code. If the business manager fails to maintain a valid license, 20256
~~he~~ the business manager shall be removed by the board. 20257

Sec. 3319.07. (A) The board of education of each city, 20258
exempted village, ~~and~~ local, and joint vocational school district 20259
shall employ the teachers of the public schools of their 20260

respective districts. 20261

The governing board of each educational service center may 20262
employ special instruction teachers, special education teachers, 20263
and teachers of academic courses in which there are too few 20264
students in each of the constituent local school districts or in 20265
city or exempted village school districts entering into agreements 20266
pursuant to section 3313.843 of the Revised Code to warrant each 20267
district's employing teachers for those courses. 20268

When any board makes appointments of teachers, the teachers 20269
in the employ of the board shall be considered before new teachers 20270
are chosen in their stead. In ~~city, exempted village, and joint~~ 20271
~~vocational~~ all school districts and in service centers no teacher 20272
shall be employed unless such person is nominated by the 20273
superintendent of such district or center. Such board, by a 20274
three-fourths vote of its full membership, may re-employ any 20275
teacher whom the superintendent refuses to appoint. ~~In local~~ 20276
~~school districts, no teacher shall be employed, except as provided~~ 20277
~~in division (B) of this section, unless nominated by the~~ 20278
~~superintendent of the service center of which such local school~~ 20279
~~district is a part; by a majority vote of the full membership of~~ 20280
~~such board, the board of education of any local school district~~ 20281
~~may, after considering two nominations for any position made by~~ 20282
~~the service center superintendent, reemploy a person not so~~ 20283
~~nominated for such position.~~ 20284

(B) The board of education of ~~a local~~ any school district ~~and~~ 20285
~~the board of education of the county school district of which the~~ 20286
~~local district is a part may enter into an agreement authorizing~~ 20287
~~the superintendent of the local district, in lieu of the~~ 20288
~~superintendent of the county district, to make nominations under~~ 20289
~~this section for the employment of teachers in the local district.~~ 20290
~~While such an agreement is in effect the board of education of the~~ 20291
~~local district shall not employ any teacher unless the person is~~ 20292

~~nominated by the superintendent of the district except that, by a~~ 20293
~~three fourths vote of its full membership, it may re-employ any~~ 20294
~~teacher whom the superintendent refuses to nominate~~ may contract 20295
with the governing board of the educational service center from 20296
which it otherwise receives services to conduct searches and 20297
recruitment of candidates for teacher positions. 20298

Sec. 3319.19. (A) Except as provided in division (D) of this 20299
section or division (A)(2) of section 3313.37 of the Revised Code, 20300
upon request, the board of county commissioners shall provide and 20301
equip offices in the county for the use of the superintendent of 20302
an educational service center, and shall provide heat, light, 20303
water, and janitorial services for such offices. Such offices 20304
shall be the permanent headquarters of the superintendent and 20305
shall be used by the governing board of the service center when it 20306
is in session. Except as provided in division (B) of this section, 20307
such offices shall be located in the county seat or, upon the 20308
approval of the governing board, may be located outside of the 20309
county seat. 20310

(B) In the case of a service center formed under section 20311
3311.053 of the Revised Code, the governing board shall designate 20312
the site of its offices. Except as provided in division (D) of 20313
this section or division (A)(2) of section 3313.37 of the Revised 20314
Code, the board of county commissioners of the county in which the 20315
designated site is located shall provide and equip the offices as 20316
under division (A) of this section, but the costs of such offices 20317
and equipment shall be apportioned among the boards of county 20318
commissioners of all counties having any territory in the area 20319
under the control of the governing board, according to the 20320
proportion of local school district pupils under the supervision 20321
of such board residing in the respective counties. Where there is 20322
a dispute as to the amount any board of county commissioners is 20323
required to pay, the probate judge of the county in which the 20324

greatest number of pupils under the supervision of the governing 20325
board reside shall apportion such costs among the boards of county 20326
commissioners and notify each such board of its share of the 20327
costs. 20328

(C) ~~Not~~ As used in division (C) of this section, in the case 20329
of a building, facility, or office space that a board of county 20330
commissioners leases or rents, "actual cost per square foot" means 20331
all cost on a per square foot basis incurred by the board under 20332
the lease or rental agreement. In the case of a building, 20333
facility, or office space that the board owns in fee simple, 20334
"actual cost per square foot" means the fair rental value on a per 20335
square foot basis of the building, facility, or office space 20336
either as compared to a similarly situated building, facility, or 20337
office space in the general vicinity or as calculated under a 20338
formula that accounts for depreciation, amortization of 20339
improvements, and other reasonable factors, including, but not 20340
limited to, parking space and other amenities. 20341

Not later than the thirty-first day of March of 2002, 2003, 20342
2004, and 2005 a board of county commissioners required to provide 20343
or equip offices pursuant to division (A) or (B) of this section 20344
shall make a written estimate of the total cost it will incur for 20345
the ensuing fiscal year to provide and equip the offices and to 20346
provide heat, light, water, and janitorial services for such 20347
offices. The total estimate of cost shall include: 20348

(1) The total square feet of space to be utilized by the 20349
educational service center; 20350

(2) The total square feet of any common areas that should be 20351
reasonably allocated to the center and the methodology for making 20352
this allocation; 20353

(3) The actual cost per square foot for both the space 20354
utilized by and the common area allocated to the center; 20355

(4) An explanation of the methodology used to determine the 20356
actual cost per square foot ~~cost~~; 20357

(5) The estimated cost of providing heat, light, and water, 20358
including an explanation of how these costs were determined; 20359

(6) The estimated cost of providing janitorial services 20360
including an explanation of the methodology used to determine this 20361
cost; 20362

(7) Any other estimated costs that the board anticipates it 20363
will occur and a detailed explanation of the costs and the 20364
rationale used to determine such costs. 20365

A copy of the total estimate of costs under this division 20366
shall be sent to the superintendent of the educational service 20367
center not later than the fifth day of April. The superintendent 20368
shall review the total estimate and shall notify the board of 20369
county commissioners not later than twenty days after receipt of 20370
the estimate of either agreement with the estimate or any specific 20371
objections to the estimates and the reasons for the objections. If 20372
the superintendent agrees with the estimate, it shall become the 20373
final total estimate of cost. Failure of the superintendent to 20374
make objections to the estimate by the twentieth day after receipt 20375
of it shall be deemed to mean that the superintendent is in 20376
agreement with the estimate. 20377

If the superintendent provides specific objections to the 20378
board of county commissioners, the board shall review the 20379
objections and may modify the original estimate and shall send a 20380
revised total estimate to the superintendent within ten days after 20381
the receipt of the superintendent's objections. The superintendent 20382
shall respond to the revised estimate within ten days after its 20383
receipt. If the superintendent agrees with it, it shall become the 20384
final total estimated cost. If the superintendent fails to respond 20385
within the required time, the superintendent shall be deemed to 20386

have agreed with the revised estimate. If the superintendent 20387
disagrees with the revised estimate, the superintendent shall send 20388
specific objections to the county commissioners. 20389

If a superintendent has sent specific objections to the 20390
revised estimate within the required time, the probate judge of 20391
the county which has the greatest number of resident local school 20392
district pupils under the supervision of the educational service 20393
center shall determine the final estimated cost and certify this 20394
amount to the superintendent and the board of county commissioners 20395
prior to the first day of July. 20396

(D)(1) A board of county commissioners shall be responsible 20397
for the following percentages of the final total estimated cost 20398
established by division (C) of this section: 20399

(a) Eighty per cent for fiscal year 2003; 20400

(b) Sixty per cent for fiscal year 2004; 20401

(c) Forty per cent for fiscal year 2005; 20402

(d) Twenty per cent for fiscal year 2006. 20403

In fiscal years 2003, 2004, 2005, and 2006 the educational 20404
service center shall be responsible for the remainder of any costs 20405
in excess of the amounts specified in division (D)(1)(a), (b), ~~or~~ 20406
(c), or (d) of this section, as applicable, associated with the 20407
provision and equipment of offices for the educational service 20408
center and for provision of heat, light, water, and janitorial 20409
services for such offices, including any unanticipated or 20410
unexpected increases in the costs beyond the final estimated cost 20411
amount. 20412

Beginning in fiscal year 2007, no board of county 20413
commissioners shall have any obligation to provide and equip 20414
offices for an educational service center or to provide heat, 20415
light, water, or janitorial services for such offices. 20416

(2) Nothing in this section shall prohibit the board of 20417
county commissioners and the governing board of an educational 20418
service center from entering into a contract for providing and 20419
equipping offices for the use of an educational service center and 20420
for providing heat, light, water, and janitorial services for such 20421
offices. The term of any such contract shall not exceed a period 20422
of four years and may be renewed for additional periods not to 20423
exceed four years. Any such contract shall supersede the 20424
provisions of division (D)(1) of this section and no educational 20425
service center may be charged, at any time, any additional amount 20426
for the county's provision of an office and equipment, heat, 20427
light, water, and janitorial services beyond the amount specified 20428
in such contract. 20429

(3) No contract entered into under division (D)(2) of this 20430
section in any year prior to fiscal year 2007 between an 20431
educational service center formed under section 3311.053 of the 20432
Revised Code and the board of county commissioners required to 20433
provide and equip its office pursuant to division (B) of this 20434
section shall take effect unless the boards of county 20435
commissioners of all other counties required to participate in the 20436
funding for such offices pursuant to division (B) of this section 20437
adopt resolutions approving the contract. 20438

Sec. 3319.22. (A) The state board of education shall adopt 20439
rules establishing the standards and requirements for obtaining 20440
temporary, associate, provisional, and professional educator 20441
licenses of any categories, types, and levels the board elects to 20442
provide. However, no educator license shall be required for 20443
teaching children two years old or younger. 20444

(B) Any rules the state board of education adopts, amends, or 20445
rescinds for educator licenses under this section, division (D) of 20446
section 3301.07 of the Revised Code, or any other law shall be 20447

adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, the effective date of any rules, or amendment or rescission of any rules, shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall

establish the structure for one or more local professional 20479
development committees to be operated by such school district. The 20480
committee structure so established by a district board shall 20481
remain in effect unless within thirty days prior to an anniversary 20482
of the date upon which the current committee structure was 20483
established, the board provides notice to all affected district 20484
employees that the committee structure is to be modified. 20485
Professional development committees may have a district-level or 20486
building-level scope of operations, and may be established with 20487
regard to particular grade or age levels for which an educator 20488
license is designated. 20489

Each professional development committee shall consist of at 20490
least three classroom teachers employed by the district, one 20491
principal employed by the district, and one other employee of the 20492
district appointed by the district superintendent. For committees 20493
with a building-level scope, the teacher and principal members 20494
shall be assigned to that building, and the teacher members shall 20495
be elected by majority vote of the classroom teachers assigned to 20496
that building. For committees with a district-level scope, the 20497
teacher members shall be elected by majority vote of the classroom 20498
teachers of the district, and the principal member shall be 20499
elected by a majority vote of the principals of the district, 20500
unless there are two or fewer principals employed by the district, 20501
in which case the one or two principals employed shall serve on 20502
the committee. If a committee has a particular grade or age level 20503
scope, the teacher members shall be licensed to teach such grade 20504
or age levels, and shall be elected by majority vote of the 20505
classroom teachers holding such a license and the principal shall 20506
be elected by all principals serving in buildings where any such 20507
teachers serve. The district superintendent shall appoint a 20508
replacement to fill any vacancy that occurs on a professional 20509
development committee, except in the case of vacancies among the 20510
elected classroom teacher members, which shall be filled by vote 20511

of the remaining members of the committee so selected. 20512

Terms of office on professional development committees shall 20513
be prescribed by the district board establishing the committees. 20514
The conduct of elections for members of professional development 20515
committees shall be prescribed by the district board establishing 20516
the committees. A professional development committee may include 20517
additional members, except that the majority of members on each 20518
such committee shall be classroom teachers employed by the 20519
district. Any member appointed to fill a vacancy occurring prior 20520
to the expiration date of the term for which a predecessor was 20521
appointed shall hold office as a member for the remainder of that 20522
term. 20523

The initial meeting of any professional development 20524
committee, upon election and appointment of all committee members, 20525
shall be called by a member designated by the district 20526
superintendent. At this initial meeting, the committee shall 20527
select a chairperson and such other officers the committee deems 20528
necessary, and shall adopt rules for the conduct of its meetings. 20529
Thereafter, the committee shall meet at the call of the 20530
chairperson or upon the filing of a petition with the district 20531
superintendent signed by a majority of the committee members 20532
calling for the committee to meet. 20533

(3) In the case of a school district in which an exclusive 20534
representative has been established pursuant to Chapter 4117. of 20535
the Revised Code, professional development committees shall be 20536
established in accordance with any collective bargaining agreement 20537
in effect in the district that includes provisions for such 20538
committees. 20539

If the collective bargaining agreement does not specify a 20540
different method for the selection of teacher members of the 20541
committees, the exclusive representative of the district's 20542
teachers shall select the teacher members. 20543

If the collective bargaining agreement does not specify a 20544
different structure for the committees, the board of education of 20545
the school district shall establish the structure, including the 20546
number of committees and the number of teacher and administrative 20547
members on each committee; the specific administrative members to 20548
be part of each committee; whether the scope of the committees 20549
will be district levels, building levels, or by type of grade or 20550
age levels for which educator licenses are designated; the lengths 20551
of terms for members; the manner of filling vacancies on the 20552
committees; and the frequency and time and place of meetings. 20553
However, in all cases, except as provided in division (C)(4) of 20554
this section, there shall be a majority of teacher members of any 20555
professional development committee, there shall be at least five 20556
total members of any professional development committee, and the 20557
exclusive representative shall designate replacement members in 20558
the case of vacancies among teacher members, unless the collective 20559
bargaining agreement specifies a different method of selecting 20560
such replacements. 20561

(4) Whenever an administrator's coursework plan is being 20562
discussed or voted upon, the local professional development 20563
committee shall, at the request of one of its administrative 20564
members, cause a majority of the committee to consist of 20565
administrative members by reducing the number of teacher members 20566
voting on the plan. 20567

(D)(1) The department of education, educational service 20568
centers, county boards of mental retardation and developmental 20569
disabilities, ~~regional professional development centers~~, special 20570
education regional resource centers, college and university 20571
departments of education, head start programs, the Ohio SchoolNet 20572
commission, and the Ohio education computer network may establish 20573
local professional development committees to determine whether the 20574
coursework proposed by their employees who are licensed or 20575

certificated under this section or section 3319.222 of the Revised Code meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of mental retardation and developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (C)(2) and (3) of this section, as shall the committees established by any other entity specified in division (D)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code. All other entities specified in division (D)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (D)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.227. Notwithstanding any provision to the contrary in this chapter or in any educator licensing rule adopted by the state board of education under authority granted under this chapter, any individual who holds an educator license issued under section 3319.22 of the Revised Code or a teacher's certificate issued under former section 3319.22 of the Revised Code that has

continuing effect under section 3319.222 of the Revised Code may 20607
be employed to teach for up to two school years in a grade level 20608
or in a subject or teaching area for which the individual's 20609
license or certificate is not valid, as long as the individual 20610
agrees that during that time the individual will enroll in, 20611
attend, and complete coursework required by rule of the state 20612
board for licensure to teach in that grade level or in that 20613
subject or teaching area. The necessary coursework may be 20614
completed through classes developed and offered by regional 20615
professional development providers, such as special education 20616
regional resource centers, ~~regional professional development~~ 20617
~~centers~~, educational service centers, local education agencies, 20618
professional organizations, and institutions of higher education, 20619
provided the coursework is taken for credit in collaboration with 20620
a college or university that has a teacher education program 20621
approved by the state board. No person shall teach in a grade 20622
level or subject or teaching area under this section beyond two 20623
years until the person has completed all coursework and tests 20624
prescribed by the state board for licensure in that grade level or 20625
subject or teaching area. 20626

Sec. 3319.302. It is the intent of the general assembly that 20627
the state board of education shall administer this section without 20628
adopting any rules for its implementation. 20629

Unless the provisions of division (B) or (C) of section 20630
3319.31 of the Revised Code apply to an applicant, the state board 20631
of education shall issue a one-year conditional teaching permit 20632
for teaching in grades seven to twelve to any applicant who meets 20633
the following conditions: 20634

(A) Holds a bachelor's degree; 20635

(B) Has successfully completed a basic skills test as 20636
prescribed by the state board; 20637

(C) Has completed either as part of the applicant's degree 20638
program or separate from it the equivalent of at least fifteen 20639
semester hours of coursework in the teaching area or subject area 20640
in which licensure under this section is sought; 20641

(D) Has completed the equivalent of a total of six semester 20642
hours of additional coursework within the past five years with a 20643
grade point average of at least 2.5 out of 4.0, or its equivalent, 20644
in the areas of the teaching or subject area described in division 20645
(C) of this section, characteristics of student learning, 20646
diversity of learners, planning for instruction, instruction 20647
strategies, learning environments, communication, assessment, or 20648
student support and that coursework has been approved by the 20649
school district, community school, chartered nonpublic school, or 20650
nonprofit or for-profit entity operating an alternative school 20651
under section 3313.533 of the Revised Code that will employ the 20652
applicant. The coursework may have been completed through classes 20653
developed and offered by regional professional development 20654
providers, such as special education regional resource centers, 20655
~~regional professional development centers~~, educational service 20656
centers, local educational agencies, professional organizations, 20657
and institutions of higher education, provided the coursework is 20658
taken for credit in collaboration with a college or university 20659
that has a teacher education program approved by the state board. 20660

(E) The applicant has entered into a written agreement with 20661
the school district; community school; chartered nonpublic school; 20662
or nonprofit or for profit entity operating an alternative school 20663
under section 3313.533 of the Revised Code that will employ the 20664
applicant and the department of education under which the 20665
district, school, or entity will provide for the applicant a 20666
structured mentoring program in the areas listed in division (D) 20667
of this section that is aligned with the performance expectations 20668
prescribed by state board rule for entry-year teachers. 20669

(F) The applicant agrees to complete while employed under the one-year teaching permit the equivalent of an additional three semester hours of coursework in the teaching area or subject area in which the individual is teaching and for which the individual will seek an alternative educator license pursuant to division (G) of this section. The individual's mentor prescribed in division (E) of this section shall assist the individual in selecting coursework to satisfy the requirement prescribed in this division. The coursework may be completed through classes offered by regional professional development providers, such as special education regional resource centers, ~~regional professional development centers~~, educational service centers, local educational agencies, professional organizations, and institutions of higher education, if the coursework is taken for credit in collaboration with a college or university that has a teacher education program approved by the state board.

(G) The applicant agrees to seek at the conclusion of the year in which the individual is employed under the one-year teaching permit issued under this section an alternative educator license issued under section 3319.26 of the Revised Code in the teaching area or subject area in which the individual has been teaching and plans to continue to teach. The applicant shall not be reemployed by the school district; community school; chartered nonpublic school; or nonprofit or for profit entity operating an alternative school under section 3313.533 of the Revised Code or be employed by another such district, school, or entity unless that alternative educator license is issued to the applicant prior to the beginning of the next school year.

(H) The applicant pays the fee established under section 3319.51 of the Revised Code.

Sec. 3319.33. On or before the first day of August in each

year, the board of education of each city ~~and~~, exempted village,
and local school district shall report to the state board of
education, ~~and the board of each local school district shall~~
~~report to the superintendent of the educational service center,~~
the school statistics of its district. Such report shall be made
on forms furnished by the state board of education and shall
contain such information as the state board of education requires.
The report shall also set forth with respect to each civil
proceeding in which the board of education is a defendant and each
civil proceeding in which the board of education is a party and is
not a defendant and in which one of the other parties is a board
of education in this state or an officer, board, or official of
this state:

(A) The nature of the proceeding;

(B) The capacity in which the board is a party to the
proceeding;

(C) The total expenses incurred by the board with respect to
the proceeding;

(D) The total expenses incurred by the board with respect to
the proceeding during the reporting period.

Divisions (A) to (D) of this section do not apply to any
proceeding for which no expenses have been incurred during the
reporting period.

The board of education of each city ~~and~~, exempted village,
and local school district may prepare and publish annually a
report of the condition and administration of the schools under
its supervision which shall include therein an exhibit of the
financial affairs of the district and the information required in
divisions (A) to (D) of this section. Such annual report shall be
for a full year.

Sec. 3319.36. (A) No treasurer of a board of education or 20731
educational service center shall draw a check for the payment of a 20732
teacher for services until the teacher files with the treasurer 20733
both of the following: 20734

(1) Such reports as are required by the state board of 20735
education, the school district board of education, or the 20736
superintendent of schools; 20737

(2) Except for a teacher who is engaged pursuant to section 20738
3319.301 of the Revised Code ~~and except as provided under division~~ 20739
~~(B) of this section,~~ a written statement from the city ~~or,~~ 20740
exempted village, or local school district superintendent or the 20741
educational service center superintendent that the teacher has 20742
filed with the treasurer a legal educator license or internship 20743
certificate, or true copy of it, to teach the subjects or grades 20744
taught, with the dates of its validity. The state board of 20745
education shall prescribe the record and administration for such 20746
filing of educator licenses and internship certificates in 20747
educational service centers. 20748

~~(B) If the board of education of a local school district and 20749
the governing board of the educational service center of which the 20750
local district is a part have entered into an agreement under 20751
division (B) of section 3319.07 of the Revised Code, the agreement 20752
may also require the superintendent of the local school district, 20753
instead of the superintendent of the educational service center, 20754
to administer the filing of educator licenses and internship 20755
certificates for the local school district and to provide to the 20756
teachers of the district the written statements required in 20757
division (A)(2) of this section. While such an agreement is in 20758
effect between a local school district and an educational service 20759
center, a teacher employed by the local district shall file a 20760
legal educator license or internship certificate, or true copy of 20761~~

~~it, with the superintendent of the local district and that~~ 20762
~~superintendent shall provide to the teacher the written statement~~ 20763
~~required by division (A)(2) of this section.~~ 20764

~~(C)~~ Notwithstanding division (A) of this section, the 20765
treasurer may pay either of the following: 20766

(1) Any teacher for services rendered during the first two 20767
months of the teacher's initial employment with the school 20768
district or educational service center, provided such teacher is 20769
the holder of a bachelor's degree or higher and has filed with the 20770
state board of education an application for the issuance of a 20771
provisional or professional educator license. 20772

(2) Any substitute teacher for services rendered while 20773
conditionally employed under section 3319.101 of the Revised Code. 20774

~~(D)~~(C) Upon notice to the treasurer given by the state board 20775
of education or any superintendent having jurisdiction that 20776
reports required of a teacher have not been made, the treasurer 20777
shall withhold the salary of the teacher until the required 20778
reports are completed and furnished. 20779

Sec. 3323.12. The board of education of a school district 20780
shall provide home instruction for handicapped children three to 20781
twenty-one years of age who are unable to attend school, even with 20782
the help of special transportation. The board may arrange for the 20783
provision of home instruction for a child by a cooperative 20784
agreement or contract with a county board of mental retardation 20785
and developmental disabilities or other educational agency. For 20786
the purposes of determining formula ADM and average daily 20787
attendance under ~~section~~ sections 3317.03 and 3317.034 of the 20788
Revised Code, five hours of home instruction shall be equivalent 20789
to attendance for five school days. 20790

Sec. 3323.16. No unit for deaf children shall be disapproved 20791

for funding under division (B) or (D)(1) of section 3317.05 of the Revised Code on the basis of the methods of instruction used in educational programs in the school district or institution to teach deaf children to communicate, and no preference in approving units for funding shall be given ~~by the state board~~ for teaching deaf children by the oral, manual, total communication, or other method of instruction.

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community school which they attend the board of education shall provide transportation for such pupils to and from such school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport

elementary or high school pupils to and from a nonpublic or 20823
community school where such transportation would require more than 20824
thirty minutes of direct travel time as measured by school bus 20825
from the collection point as designated by ~~the coordinator of~~ 20826
~~school transportation, appointed under section 3327.011 of the~~ 20827
~~Revised Code, for the attendance area of~~ the district of 20828
residence. 20829

Where it is impractical to transport a pupil by school 20830
conveyance, a board of education may offer payment, in lieu of 20831
providing such transportation in accordance with section 3327.02 20832
of the Revised Code. 20833

In all city, local, and exempted village school districts the 20834
board shall provide transportation for all children who are so 20835
crippled that they are unable to walk to and from the school for 20836
which the state board of education prescribes minimum standards 20837
pursuant to division (D) of section 3301.07 of the Revised Code 20838
and which they attend. In case of dispute whether the child is 20839
able to walk to and from the school, the health commissioner shall 20840
be the judge of such ability. In all city, exempted village, and 20841
local school districts the board shall provide transportation to 20842
and from school or special education classes for educable mentally 20843
retarded children in accordance with standards adopted by the 20844
state board of education. 20845

When transportation of pupils is provided the conveyance 20846
shall be run on a time schedule that shall be adopted and put in 20847
force by the board not later than ten days after the beginning of 20848
the school term. 20849

The cost of any transportation service authorized by this 20850
section shall be paid first out of federal funds, if any, 20851
available for the purpose of pupil transportation, and secondly 20852
out of state appropriations, in accordance with regulations 20853
adopted by the state board of education. 20854

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin.

~~Sec. 3327.011. Coordinators of school transportation shall be appointed according to provisions of section 3301.13 of the Revised Code to assure that each pupil, as provided in section 3327.01 of the Revised Code, is transported to and from the school which he attends in a safe, expedient, and economical manner using public school collection points, routes, and schedules.~~

In determining how best to provide such transportation, where persons or firms on or after April 1, 1965, were providing transportation to and from schools pursuant to contracts with persons or agencies responsible for the operation of such schools, ~~a coordinator or~~ the board of education responsible for transportation in accordance with section 3327.01 of the Revised Code shall give preference if economically feasible during the term of any such contract to the firm or person providing such transportation. The boards of education within the county or group of counties shall ~~recommend to the coordinator of~~ establish transportation routes, schedules, and utilization of transportation equipment. ~~The coordinator, upon receipt of such recommendations, shall establish transportation routes, schedules, and utilization of transportation equipment, following such recommendations to whatever extent is feasible.~~ The appeals from the determination of the ~~coordinator~~ board of education responsible for transportation shall be taken to the state board of education.

Sec. 3329.06. The board of education of each city, exempted

village, and local school district shall furnish, free of charge, 20885
the necessary textbooks to the pupils attending the public 20886
schools. In lieu of textbooks, district boards may furnish 20887
electronic textbooks to pupils attending the public schools, 20888
provided the electronic textbooks are furnished free of charge. A 20889
district board that chooses to furnish electronic textbooks to 20890
pupils attending school in the district shall provide reasonable 20891
access to the electronic textbooks and other necessary computer 20892
equipment to pupils in the district who are required to complete 20893
homework assignments, and teachers providing homework assignments, 20894
utilizing electronic textbooks furnished by the district board. 20895
Pupils wholly or in part supplied with necessary textbooks or 20896
electronic textbooks shall be supplied only as other or new 20897
textbooks or electronic textbooks are needed. ~~A board may limit 20898
its purchase and ownership of textbooks or electronic textbooks 20899
needed for its schools to six subjects per year, the cost of which 20900
shall not exceed twenty five per cent of the entire cost of 20901
adoption.~~ All textbooks or electronic textbooks furnished as 20902
provided in this section shall be the property of the district, 20903
and loaned to the pupils on such terms as each such board 20904
prescribes. In order to carry out sections 3329.01 to 3329.10 of 20905
the Revised Code, each board, in the preparation of its annual 20906
budget, shall include as a separate item the amount which the 20907
board finds necessary to administer such sections and such amount 20908
shall not be subject to transfer to any other fund. 20909

Sec. 3329.08. At any regular meeting, the board of education 20910
of each local school district, from lists adopted by the 20911
educational service center governing board, and the board of 20912
education of each city and exempted village school district shall 20913
determine by a majority vote of all members elected or appointed 20914
under division (B) or (F) of section 3311.71 of the Revised Code 20915
which of such textbooks or electronic textbooks so filed shall be 20916

used in the schools under its control. ~~Except for periodic and~~ 20917
~~normal updating of electronic textbooks, no textbooks or~~ 20918
~~electronic textbooks shall be changed, nor any part thereof~~ 20919
~~altered or revised, nor any other textbook or electronic textbook~~ 20920
~~substituted therefor, within four years after the date of~~ 20921
~~selection and adoption thereof, as shown by the official records~~ 20922
~~of such boards, except by the consent, at a regular meeting, of~~ 20923
~~four fifths of all members elected thereto. Textbooks or~~ 20924
~~electronic textbooks so substituted shall be adopted for the full~~ 20925
~~term of four years.~~ 20926

Sec. 3332.04. The state board of career colleges and schools 20927
may appoint an executive director and such other staff as may be 20928
required for the performance of the board's duties and provide 20929
necessary facilities. In selecting an executive director, the 20930
board shall appoint an individual with a background or experience 20931
in the regulation of commerce, business, or education. The board 20932
may also arrange for services and facilities to be provided by the 20933
state board of education and the Ohio board of regents. All 20934
receipts of the board shall be deposited in the state treasury to 20935
the credit of the ~~general revenue~~ occupational licensing and 20936
regulatory fund. 20937

Sec. 3333.12. (A) As used in this section: 20938

(1) "Eligible student" means an undergraduate student who is: 20939

(a) An Ohio resident; 20940

(b) Enrolled in either of the following: 20941

(i) An accredited institution of higher education in this 20942
state that meets the requirements of Title VI of the Civil Rights 20943
Act of 1964 and is state-assisted, is nonprofit and has a 20944
certificate of authorization from the Ohio board of regents 20945
pursuant to Chapter 1713. of the Revised Code, has a certificate 20946

of registration from the state board of career colleges and 20947
schools and program authorization to award an associate or 20948
bachelor's degree, or is a private institution exempt from 20949
regulation under Chapter 3332. of the Revised Code as prescribed 20950
in section 3333.046 of the Revised Code. Students who attend an 20951
institution that holds a certificate of registration shall be 20952
enrolled in a program leading to an associate or bachelor's degree 20953
for which associate or bachelor's degree program the institution 20954
has program authorization issued under section 3332.05 of the 20955
Revised Code. 20956

(ii) A technical education program of at least two years 20957
duration sponsored by a private institution of higher education in 20958
this state that meets the requirements of Title VI of the Civil 20959
Rights Act of 1964. 20960

(c) Enrolled as a full-time student or enrolled as a less 20961
than full-time student for the term expected to be the student's 20962
final term of enrollment and is enrolled for the number of credit 20963
hours necessary to complete the requirements of the program in 20964
which the student is enrolled. 20965

(2) "Gross income" includes all taxable and nontaxable income 20966
of the parents, the student, and the student's spouse, except 20967
income derived from an Ohio academic scholarship, income earned by 20968
the student between the last day of the spring term and the first 20969
day of the fall term, and other income exclusions designated by 20970
the board. Gross income may be verified to the board by the 20971
institution in which the student is enrolled using the federal 20972
financial aid eligibility verification process or by other means 20973
satisfactory to the board. 20974

(3) "Resident," "full-time student," "dependent," 20975
"financially independent," and "accredited" shall be defined by 20976
rules adopted by the board. 20977

(B) The Ohio board of regents shall establish and administer 20978
an instructional grant program and may adopt rules to carry out 20979
this section. The general assembly shall support the instructional 20980
grant program by such sums and in such manner as it may provide, 20981
but the board may also receive funds from other sources to support 20982
the program. If the amounts available for support of the program 20983
are inadequate to provide grants to all eligible students, 20984
preference in the payment of grants shall be given in terms of 20985
income, beginning with the lowest income category of gross income 20986
and proceeding upward by category to the highest gross income 20987
category. 20988

An instructional grant shall be paid to an eligible student 20989
through the institution in which the student is enrolled, except 20990
that no instructional grant shall be paid to any person serving a 20991
term of imprisonment. Applications for such grants shall be made 20992
as prescribed by the board, and such applications may be made in 20993
conjunction with and upon the basis of information provided in 20994
conjunction with student assistance programs funded by agencies of 20995
the United States government or from financial resources of the 20996
institution of higher education. The institution shall certify 20997
that the student applicant meets the requirements set forth in 20998
divisions (A)(1)(b) and (c) of this section. Instructional grants 20999
shall be provided to an eligible student only as long as the 21000
student is making appropriate progress toward a nursing diploma or 21001
an associate or bachelor's degree. No student shall be eligible to 21002
receive a grant for more than ten semesters, fifteen quarters, or 21003
the equivalent of five academic years. A grant made to an eligible 21004
student on the basis of less than full-time enrollment shall be 21005
based on the number of credit hours for which the student is 21006
enrolled and shall be computed in accordance with a formula 21007
adopted by the board. No student shall receive more than one grant 21008
on the basis of less than full-time enrollment. 21009

An instructional grant shall not exceed the total 21010
instructional and general charges of the institution. 21011

(C) The tables in this division prescribe the maximum grant 21012
amounts covering two semesters, three quarters, or a comparable 21013
portion of one academic year. Grant amounts for additional terms 21014
in the same academic year shall be determined under division (D) 21015
of this section. 21016

For a full-time student who is a dependent and enrolled in a 21017
nonprofit educational institution that is not a state-assisted 21018
institution and that has a certificate of authorization issued 21019
pursuant to Chapter 1713. of the Revised Code, the amount of the 21020
instructional grant for two semesters, three quarters, or a 21021
comparable portion of the academic year shall be determined in 21022
accordance with the following table: 21023

Private Institution							21025
Table of Grants							21026
Maximum Grant \$5,466							21027
Gross Income	Number of Dependents						21028
	1	2	3	4	5 or more		21029
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466		21030
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466		21031
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466		21032
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466		21033
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466		21034
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920		21035
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362		21036
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828		21037
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288		21038
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736		21039
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178		21040

\$33,001 - \$34,000	888	984	1,080	1,344	1,626	21041
\$34,001 - \$35,000	444	888	984	1,080	1,344	21042
\$35,001 - \$36,000	--	444	888	984	1,080	21043
\$36,001 - \$37,000	--	--	444	888	984	21044
\$37,001 - \$38,000	--	--	--	444	888	21045
\$38,001 - \$39,000	--	--	--	--	444	21046

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							21054
Table of Grants							21055
Maximum Grant \$5,466							21056
Gross Income	Number of Dependents						21057
	0	1	2	3	4	5 or more	21058
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	21059
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	21060
\$5,301 - \$5,800	4,362	4,920 <u>5,196</u>	5,466	5,466	5,466	5,466	21061
\$5,801 - \$6,300	3,828	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	5,466	5,466	21062
\$6,301 - \$6,800	3,288	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	5,466	21063
\$6,801 - \$7,300	2,736	3,288 <u>4,380</u>	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	21064
\$7,301 - \$8,300	2,178	2,736 <u>4,104</u>	3,288 <u>4,380</u>	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	21065
\$8,301 - \$9,300	1,626	2,178	2,736	3,288	3,828	4,362	21066

			<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	21073
\$9,301 - \$10,300	1,344	1,626	2,178	2,736	3,288	3,828		21074
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>		21075
\$10,301 - \$11,800	1,080	1,344	1,626	2,178	2,736	3,288		21076
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>		21077
\$11,801 - \$13,300	984	1,080	1,344	1,626	2,178	2,736		21078
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>		21079
\$13,301 - \$14,800	888	984	1,080	1,344	1,626	2,178		21080
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>		21081
\$14,801 - \$16,300	444	888	984	1,080	1,344	1,626		21082
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>		21083
\$16,301 - \$19,300	--	444	888	984	1,080	1,344		21084
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>		21085
\$19,301 - \$22,300	--	—	444	888	984	1,080		21086
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>		21087
\$22,301 - \$25,300	--	—	—	444	888	984		21088
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>		21089
\$25,301 - \$30,300	--	—	—	—	444	888		21090
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>		21091
\$30,301 - \$35,300	--	—	—	—	—	444		21092
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>		21093

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	21102
Table of Grants	21103
Maximum Grant \$4,632	21104
Gross Income	21105
Number of Dependents	21105

	1	2	3	4	5 or more	
						21106
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	21107
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	21108
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	21109
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	21110
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	21111
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	21112
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	21113
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	21114
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	21115
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	21116
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	21117
\$33,001 - \$34,000	750	852	906	1,134	1,416	21118
\$34,001 - \$35,000	372	750	852	906	1,134	21119
\$35,001 - \$36,000	--	372	750	852	906	21120
\$36,001 - \$37,000	--	--	372	750	852	21121
\$37,001 - \$38,000	--	--	--	372	750	21122
\$38,001 - \$39,000	--	--	--	--	372	21123

For a full-time student who is financially independent and
enrolled in an educational institution that holds a certificate of
registration from the state board of 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					
	0	1	2	3	4	5 or more
						21132
						21133
						21134
						21135
						21136

\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	21137
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	21138
\$5,301 - \$5,800	3,684	4,182	4,632	4,632	4,632	4,632	21139
		<u>4,410</u>					21140
\$5,801 - \$6,300	3,222	3,684	4,182	4,632	4,632	4,632	21141
		<u>4,158</u>	<u>4,410</u>				21142
\$6,301 - \$6,800	2,790	3,222	3,684	4,182	4,632	4,632	21143
		<u>3,930</u>	<u>4,158</u>	<u>4,410</u>			21144
\$6,801 - \$7,300	2,292	2,790	3,222	3,684	4,182	4,632	21145
		<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>		21146
\$7,301 - \$8,300	1,854	2,292	2,790	3,222	3,684	4,182	21147
		<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>	21148
\$8,301 - \$9,300	1,416	1,854	2,292	2,790	3,222	3,684	21149
		<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	21150
\$9,301 - \$10,300	1,134	1,416	1,854	2,292	2,790	3,222	21151
		<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	21152
\$10,301 - \$11,800	906	1,134	1,416	1,854	2,292	2,790	21153
		<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	21154
\$11,801 - \$13,300	852	906	1,134	1,416	1,854	2,292	21155
		<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	21156
\$13,301 - \$14,800	750	852	906	1,134	1,416	1,854	21157
		<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	21158
\$14,801 - \$16,300	372	750	852	906	1,134	1,416	21159
		<u>2,466</u>	<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	21160
\$16,301 - \$19,300	--	372	750	852	906	1,134	21161
		<u>1,800</u>	<u>2,220</u>	<u>2,520</u>	<u>2,772</u>	<u>2,886</u>	21162
\$19,301 - \$22,300	--	—	372	750	852	906	21163
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	21164
\$22,301 - \$25,300	--	—	—	372	750	852	21165
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	21166
\$25,301 - \$30,300	--	—	—	—	372	750	21167
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	21168
\$30,301 - \$35,300	--	—	—	—	—	372	21169

426 456 570 708 1,116 21170

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 21176

Table of Grants 21177

Maximum Grant \$2,190 21178

Gross Income Number of Dependents 21179

	1	2	3	4	5 or more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	21180
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	21181
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	21182
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	21183
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	21184
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	21185
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	21186
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	21187
\$28,001 - \$31,000	522	648	864	1,080	1,320	21188
\$31,001 - \$32,000	420	522	648	864	1,080	21189
\$32,001 - \$33,000	384	420	522	648	864	21190
\$33,001 - \$34,000	354	384	420	522	648	21191
\$34,001 - \$35,000	174	354	384	420	522	21192
\$35,001 - \$36,000	--	174	354	384	420	21193
\$36,001 - \$37,000	--	--	174	354	384	21194
\$37,001 - \$38,000	--	--	--	174	354	21195
\$38,001 - \$39,000	--	--	--	--	174	21196

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							21201
Table of Grants							21202
Maximum Grant \$2,190							21203
Gross Income	Number of Dependents						21204
	0	1	2	3	4	5 or more	21205
							21206
							21207
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	21208
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	21209
\$5,301 - \$5,800	1,740	1,974	2,190	2,190	2,190	2,190	21210
		<u>2,082</u>					21211
\$5,801 - \$6,300	1,542	1,740	1,974	2,190	2,190	2,190	21212
		<u>1,968</u>	<u>2,082</u>				21213
\$6,301 - \$6,800	1,320	1,542	1,740	1,974	2,190	2,190	21214
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			21215
\$6,801 - \$7,300	1,080	1,320	1,542	1,740	1,974	2,190	21216
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		21217
\$7,301 - \$8,300	864	1,080	1,320	1,542	1,740	1,974	21218
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	21219
\$8,301 - \$9,300	648	864	1,080	1,320	1,542	1,740	21220
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	21221
\$9,301 - \$10,300	522	648	864	1,080	1,320	1,542	21222
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	21223
\$10,301 - \$11,800	420	522	648	864	1,080	1,320	21224
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	21225
\$11,801 - \$13,300	384	420	522	648	864	1,080	21226
		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	21227
\$13,301 - \$14,800	354	384	420	522	648	864	21228
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	21229
\$14,801 - \$16,300	174	354	384	420	522	648	21230
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	21231
\$16,301 - \$19,300	--	174	354	384	420	522	21232

			<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	21233
\$19,301 - \$22,300	--	—	—	174	354	384	420	21234
			<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	21235
\$22,301 - \$25,300	--	—	—	174	354	384	420	21236
			<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	21237
\$25,301 - \$30,300	--	—	—	—	174	354	420	21238
			<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	21239
\$30,301 - \$35,300	--	—	—	—	—	—	174	21240
			<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	21241

(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: 21265

(a) Any student enrolled in an institution that under the 21266
federal law appeals its loss of eligibility for federal financial 21267
aid and the United States secretary of education determines its 21268
cohort default rate after recalculation is lower than the rate 21269
specified in division (F)(1) of this section or the secretary 21270
determines due to mitigating circumstances the institution may 21271
continue to participate in federal financial aid programs. The 21272
board shall adopt rules requiring institutions to provide 21273
information regarding an appeal to the board. 21274

(b) Any student who has previously received a grant under 21275
this section who meets all other requirements of this section. 21276

(3) The board shall adopt rules for the notification of all 21277
institutions whose students will be ineligible to participate in 21278
the grant program pursuant to division (F)(1) of this section. 21279

(4) A student's attendance at an institution whose students 21280
lose eligibility for grants under division (F)(1) of this section 21281
shall not affect that student's eligibility to receive a grant 21282
when enrolled in another institution. 21283

(G) Institutions of higher education that enroll students 21284
receiving instructional grants under this section shall report to 21285
the board all students who have received instructional grants but 21286
are no longer eligible for all or part of such grants and shall 21287
refund any moneys due the state within thirty days after the 21288
beginning of the quarter or term immediately following the quarter 21289
or term in which the student was no longer eligible to receive all 21290
or part of the student's grant. There shall be an interest charge 21291
of one per cent per month on all moneys due and payable after such 21292
thirty-day period. The board shall immediately notify the office 21293
of budget and management and the legislative service commission of 21294
all refunds so received. 21295

Sec. 3333.16. As used in this section "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code. 21296
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(A) By April 15, 2005, the Ohio board of regents shall do all of the following: 21299
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(1) Require each state institution of higher education to make changes in its respective academic programs so that successful completion of any course in a particular field of study shall be recognized for full credit at any other state institution of higher education toward satisfying the requirements of a degree or certification program in that same field of study; 21301
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(2) Ensure that community colleges, university branches, technical colleges, and state community colleges comply with the requirement of division (A)(5) of section 3333.20 of the Revised Code that they offer college transfer programs or the initial two years of a baccalaureate degree for students planning to transfer to institutions offering baccalaureate programs; 21307
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(3) Develop and implement a universal course equivalency classification system for state institutions of higher education so that the transfer of students and the transfer and articulation of courses or specified learning modules or units completed by students are not inhibited by inconsistent course classifications. Coursework completed within such a system at one state institution of higher education and transferred to another institution shall be applied to the student's degree objective in the same manner as equivalent coursework completed at the receiving institution. 21313
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(4) Develop a system of transfer policies that ensure that graduates with associate degrees which included completion of approved transfer modules shall be admitted to a state institution of higher education baccalaureate program, except in limited 21322
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access programs or those requiring an audition, and shall have 21326
priority over out-of-state associate degree graduates and transfer 21327
students; 21328

(5) Examine the feasibility of requiring all state 21329
institutions of higher education to adopt either a quarter-hour 21330
system or a semester-hour system. 21331

(B) By April 15, 2004, the board shall report to the general 21332
assembly on its progress in attaining completion of the actions 21333
prescribed in division (A) of this section. 21334

Sec. 3361.01. (A) There is hereby created a state university 21335
to be known as the "university of Cincinnati." The government of 21336
the university of Cincinnati is vested in a board of eleven 21337
trustees who shall be appointed by the governor with the advice 21338
and consent of the senate. Two of the trustees shall be students 21339
at the university of Cincinnati, and their selection and terms 21340
shall be in accordance with division (B) of this section. The 21341
terms of the first nine members of the board of trustees shall 21342
commence upon the effective date of the transfer of assets of the 21343
state-affiliated university of Cincinnati to the university of 21344
Cincinnati hereby created. One of such trustees shall be appointed 21345
for a term ending on the first day of January occurring at least 21346
twelve months after such date of transfer, and each of the other 21347
trustees shall be appointed for respective terms ending on each 21348
succeeding first day of January, so that one term will expire on 21349
each first day of January after expiration of the shortest term. 21350
Except for the two student trustees, each successor trustee shall 21351
be appointed for a term ending on the first day of January, nine 21352
years from the expiration date of the term ~~he~~ the trustee 21353
succeeds, except that any person appointed to fill a vacancy shall 21354
be appointed to serve only for the unexpired term. 21355

Any trustee shall continue in office subsequent to the 21356

expiration date of ~~his~~ the trustee's term until ~~his~~ the trustee's 21357
successor takes office, or until a period of sixty days has 21358
elapsed, whichever occurs first. 21359

No person who has served a full nine-year term or longer or 21360
more than six years of such a term shall be eligible to 21361
reappointment. ~~No person is eligible for appointment to the board~~ 21362
~~of trustees for a full nine year term who is not at the time of~~ 21363
~~appointment a resident of the city of Cincinnati, unless at the~~ 21364
~~time of such appointment there are at least five members of the~~ 21365
~~board who are not students and who are residents of the city of~~ 21366
~~Cincinnati.~~ 21367

The trustees shall receive no compensation for their services 21368
but shall be paid their reasonable necessary expenses while 21369
engaged in the discharge of their official duties. A majority of 21370
the board constitutes a quorum. 21371

(B) The student members of the board of trustees of the 21372
university of Cincinnati have no voting power on the board. 21373
Student members shall not be considered as members of the board in 21374
determining whether a quorum is present. Student members shall not 21375
be entitled to attend executive sessions of the board. The student 21376
members of the board shall be appointed by the governor, with the 21377
advice and consent of the senate, from a group of five candidates 21378
selected pursuant to a procedure adopted by the university's 21379
student governments and approved by the university's board of 21380
trustees. The initial term of office of one of the student members 21381
shall commence on May 14, 1988 and shall expire on May 13, 1989, 21382
and the initial term of office of the other student member shall 21383
commence on May 14, 1988 and expire on May 13, 1990. Thereafter, 21384
terms of office of student members shall be for two years, each 21385
term ending on the same day of the same month of the year as the 21386
term it succeeds. In the event that a student cannot fulfill ~~his~~ a 21387
two-year term, a replacement shall be selected to fill the 21388

unexpired term in the same manner used to make the original 21389
selection. 21390

Sec. 3365.04. The rules adopted under section 3365.02 of the 21391
Revised Code shall provide for students to enroll in courses under 21392
either of the following options: 21393

(A) The student may elect at the time of enrollment to 21394
receive only college credit for the course. The college shall 21395
notify the student about payment of tuition and fees in the 21396
customary manner followed by the college, and the student shall be 21397
responsible for payment of all tuition and the cost of all 21398
textbooks, materials, and fees associated with the course. If the 21399
student successfully completes the course, the college shall award 21400
the student full credit for the course, but the board of education 21401
or nonpublic participating school shall not award the high school 21402
credit. 21403

(B) The student may elect at the time of enrollment for each 21404
course to receive both college credit and high school credit. 21405
Except as provided in section 3365.041 of the Revised Code, if the 21406
student successfully completes the course, the college shall award 21407
the student full credit for the course, the board of education or 21408
nonpublic school shall award the student high school credit, and 21409
the college shall be reimbursed in accordance with section 3365.07 21410
of the Revised Code. 21411

When determining a school district's formula ADM and average 21412
daily attendance under ~~section~~ sections 3317.03 and 3317.034 of 21413
the Revised Code, the time a participant is attending courses 21414
under division (A) of this section shall be considered as time the 21415
participant is not attending or enrolled in school anywhere, and 21416
the time a participant is attending courses under division (B) of 21417
this section shall be considered as time the participant is 21418
attending or enrolled in the district's schools. 21419

Sec. 3377.01. As used in Chapter 3377. of the Revised Code: 21420

(A) "Educational institution" or "institution" means an 21421
educational institution organized not for profit and holding an 21422
effective certificate of authorization issued under section 21423
1713.02 of the Revised Code. It does not include any institution 21424
created by or in accordance with Title XXXIII of the Revised Code 21425
nor any institution whose principal educational activity is 21426
preparing students for or granting degrees, diplomas, and other 21427
marks of deficiency which have value only in religious and 21428
ecclesiastical fields. 21429

(B) "Educational facility" or "facility" means any building, 21430
structure, facility, equipment, machinery, utility, or 21431
improvement, site, or other interest in real estate therefor or 21432
pertinent thereto, and equipment and furnishings to be used 21433
therein or in connection therewith, together with any 21434
appurtenances necessary or convenient to the uses thereof, to be 21435
used for or in connection with the conduct or operation of an 21436
educational institution, including but not limited to, classrooms 21437
and other instructional facilities, laboratories, research 21438
facilities, libraries, study facilities, administrative and office 21439
facilities, museums, gymnasiums, campus walks, drives and site 21440
improvements, dormitories and other suitable living quarters or 21441
accommodations, dining halls and other food service and 21442
preparation facilities, student services or activity facilities, 21443
physical education, athletic and recreational facilities, 21444
theatres, auditoriums, assembly and exhibition halls, greenhouses, 21445
agricultural buildings and facilities, parking, storage and 21446
maintenance facilities, infirmary, hospital, medical, and health 21447
facilities, continuing education facilities, communications, fire 21448
prevention, and fire fighting facilities, and any one, or any 21449
combination of the foregoing, whether or not comprising part of 21450

one building, structure, or facility. It does not include any 21451
facility used ~~for sectarian instruction or study or~~ exclusively as 21452
a place for devotional activities ~~or religious worship~~. 21453

(C) "Bond proceedings" means the resolution or resolutions, 21454
the trust agreement, the indenture of mortgage, or combination 21455
thereof authorizing or providing for the terms and conditions 21456
applicable to bonds issued under authority of Chapter 3377. of the 21457
Revised Code. 21458

(D) "Pledged facilities" means the project or other property 21459
that is mortgaged or the rentals, revenues, and other income, 21460
charges, and moneys from which are pledged, or both, for the 21461
payment of or the security for the payment of the principal of and 21462
interest on the bonds issued under the authority of section 21463
3377.05 or 3377.06 of the Revised Code. 21464

(E) "Project" means real or personal property, or both, 21465
acquired by gift or purchase, constructed, reconstructed, 21466
enlarged, remodeled, renovated, improved, furnished, or equipped, 21467
or any combination thereof, by or financed by the Ohio higher 21468
educational facility commission, or by funds that are refinanced 21469
or reimbursed by the commission for use by an educational 21470
institution as an educational facility located within the state. 21471

(F) "Project costs" means the costs of acquiring, 21472
constructing, equipping, furnishing, reconstructing, remodeling, 21473
renovating, enlarging, and improving educational facilities 21474
comprising one or more project, including costs connected with or 21475
incidental thereto, provision of capitalized interest prior to and 21476
during construction and for a period after the completion of the 21477
construction, appropriate reserves, architectural, engineering, 21478
financial, and legal services, and all other costs of financing, 21479
and the repayment or restoration of moneys borrowed or advanced 21480
for such purposes or temporarily used therefor from other sources, 21481
and means the costs of refinancing obligations issued or loans 21482

incurred by, or reimbursement of money advanced, invested or 21483
expended by, educational institutions or others the proceeds of 21484
which obligations or loans or the amounts advanced, invested or 21485
expended were used at any time for the payment of project costs, 21486
if the Ohio higher educational facility commission determines that 21487
the refinancing or reimbursement advances the purposes of this 21488
chapter, whether or not the refinancing or reimbursement is in 21489
conjunction with the acquisition or construction of additional 21490
educational facilities. 21491

Sec. 3377.06. In anticipation of the issuance of bonds 21492
authorized by section 3377.05 of the Revised Code, the Ohio higher 21493
educational facility commission may issue bond anticipation notes 21494
of the state and may renew the same from time to time by the 21495
issuance of new notes, but the maximum maturity of such notes, 21496
including renewals thereof, shall not exceed five years from the 21497
date of the issuance of the original notes. Such notes are payable 21498
solely from the revenues and receipts that may be pledged to the 21499
payment of such bonds or from the proceeds of such bonds, or both, 21500
as the commission provides in its resolution authorizing such 21501
notes, and may be additionally secured by covenants of the 21502
commission to the effect that the commission will do such or all 21503
things necessary for the issuance of such bonds, or of renewal 21504
notes under this section in appropriate amount, and either 21505
exchange such bonds or renewal notes therefor or apply the 21506
proceeds thereof to the extent necessary to make full payment on 21507
such notes at the time or times contemplated, as provided in such 21508
resolution. Subject to the provisions of this section, all 21509
provisions for and references to bonds in Chapter 3377. of the 21510
Revised Code are applicable to notes authorized under this section 21511
and any references therein to bondholders shall include holders or 21512
owners of such notes. 21513

Prior to the sale of bonds or notes authorized under section 21514

3377.05 or 3377.06 of the Revised Code, the commission shall 21515
determine that the project to be financed thereby will contribute 21516
to the objectives stated in section 3377.02 of the Revised Code 21517
and that the educational institution to which such project is to 21518
be leased, sold, exchanged, or otherwise disposed of, admits 21519
students without discrimination by reason of race, ~~creed~~, color, 21520
or national origin. 21521

Sec. 3383.01. As used in this chapter: 21522

(A) "Arts" means any of the following: 21523

(1) Visual, musical, dramatic, graphic, design, and other 21524
arts, including, but not limited to, architecture, dance, 21525
literature, motion pictures, music, painting, photography, 21526
sculpture, and theater, and the provision of training or education 21527
in these arts; 21528

(2) The presentation or making available, in museums or other 21529
indoor or outdoor facilities, of principles of science and their 21530
development, use, or application in business, industry, or 21531
commerce or of the history, heritage, development, presentation, 21532
and uses of the arts described in division (A)(1) of this section 21533
and of transportation; 21534

(3) The preservation, presentation, or making available of 21535
features of archaeological, architectural, environmental, or 21536
historical interest or significance in a state historical facility 21537
or a local historical facility. 21538

(B) "Arts organization" means either of the following: 21539

(1) A governmental agency or Ohio nonprofit corporation that 21540
provides programs or activities in areas directly concerned with 21541
the arts; 21542

(2) A regional arts and cultural district as defined in 21543
section 3381.01 of the Revised Code. 21544

(C) "Arts project" means all or any portion of an Ohio arts facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code.

(D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility.

(E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the arts organization have executed an agreement with respect to either of those funds.

(F) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state

established by or pursuant to law, or any combination of these 21575
entities; except where otherwise indicated, the United States or 21576
any department, division, or agency of the United States, or any 21577
agency, commission, or authority established pursuant to an 21578
interstate compact or agreement. 21579

(H) "Local contributions" means the value of an asset 21580
provided by or on behalf of an arts organization from sources 21581
other than the state, the value and nature of which shall be 21582
approved by the Ohio arts and sports facilities commission, in its 21583
sole discretion. "Local contributions" may include the value of 21584
the site where an arts project is to be constructed. All "local 21585
contributions," except a contribution attributable to such a site, 21586
shall be for the costs of construction of an arts project or the 21587
costs of operation of an arts facility. 21588

(I) "Local historical facility" means a site or facility, 21589
other than a state historical facility, of archaeological, 21590
architectural, environmental, or historical interest or 21591
significance, or a facility, including a storage facility, 21592
appurtenant to the operations of such a site or facility, that is 21593
owned by an arts organization, provided the facility meets the 21594
requirements of division (K)(2)(b) of this section, is managed by 21595
or pursuant to a contract with the Ohio arts and sports facilities 21596
commission, and is used for or in connection with the activities 21597
of the commission, including the presentation or making available 21598
of arts to the public. 21599

(J) "Manage," "operate," or "management" means the provision 21600
of, or the exercise of control over the provision of, activities: 21601

(1) Relating to the arts for an Ohio arts facility, including 21602
as applicable, but not limited to, providing for displays, 21603
exhibitions, specimens, and models; booking of artists, 21604
performances, or presentations; scheduling; and hiring or 21605
contracting for directors, curators, technical and scientific 21606

staff, ushers, stage managers, and others directly related to the 21607
arts activities in the facility; but not including general 21608
building services; 21609

(2) Relating to sports and athletic events for an Ohio sports 21610
facility, including as applicable, but not limited to, providing 21611
for booking of athletes, teams, and events; scheduling; and hiring 21612
or contracting for staff, ushers, managers, and others directly 21613
related to the sports and athletic events in the facility; but not 21614
including general building services. 21615

(K) "Ohio arts facility" means any of the following: 21616

(1) The three theaters located in the state office tower at 21617
77 South High street in Columbus; 21618

(2) Any capital facility in this state to which both of the 21619
following apply: 21620

(a) The construction of an arts project related to the 21621
facility was authorized or funded by the general assembly pursuant 21622
to division (D)(3) of section 3383.07 of the Revised Code and 21623
proceeds of state bonds are used for costs of the arts project. 21624

(b) The facility is managed directly by, or is subject to a 21625
cooperative or management contract with, the Ohio arts and sports 21626
facilities commission, and is used for or in connection with the 21627
activities of the commission, including the presentation or making 21628
available of arts to the public and the provision of training or 21629
education in the arts. ~~A cooperative or management contract shall 21630
be for a term not less than the time remaining to the date of 21631
payment or provision for payment of any state bonds issued to pay 21632
the costs of the arts project, as determined by the director of 21633
budget and management and certified by the director to the Ohio 21634
arts and sports facilities commission and to the Ohio building 21635
authority. 21636~~

(3) A state historical facility or a local historical 21637

facility. 21638

(L) "State agency" means the state or any of its branches, 21639
officers, boards, commissions, authorities, departments, 21640
divisions, or other units or agencies. 21641

(M) "Construction" includes acquisition, including 21642
acquisition by lease-purchase, demolition, reconstruction, 21643
alteration, renovation, remodeling, enlargement, improvement, site 21644
improvements, and related equipping and furnishing. 21645

(N) "State historical facility" means a site or facility of 21646
archaeological, architectural, environmental, or historical 21647
interest or significance, or a facility, including a storage 21648
facility, appurtenant to the operations of such a site or 21649
facility, that is owned by or is located on real property owned by 21650
the state or by an arts organization, so long as the real property 21651
of the arts organization is contiguous to state-owned real 21652
property that is in the care, custody, and control of an arts 21653
organization, and that is managed directly by or is subject to a 21654
cooperative or management contract with the Ohio arts and sports 21655
facilities commission and is used for or in connection with the 21656
activities of the commission, including the presentation or making 21657
available of arts to the public. 21658

(O) "Ohio sports facility" means all or a portion of a 21659
stadium, arena, or other capital facility in this state, a primary 21660
purpose of which is to provide a site or venue for the 21661
presentation to the public of events of one or more major or minor 21662
league professional athletic or sports teams that are associated 21663
with the state or with a city or region of the state, which 21664
facility is owned by or is located on real property owned by the 21665
state or a governmental agency, and including all parking 21666
facilities, walkways, and other auxiliary facilities, equipment, 21667
furnishings, and real and personal property and interests and 21668
rights therein, that may be appropriate for or used for or in 21669

connection with the facility or its operation, for capital costs 21670
of which state funds are spent pursuant to this chapter. A 21671
facility constructed as an Ohio sports facility may be both an 21672
Ohio arts facility and an Ohio sports facility. 21673

Sec. 3383.07. (A) The department of administrative services 21674
shall provide for the construction of an arts project in 21675
conformity with Chapter 153. of the Revised Code, except as 21676
follows: 21677

(1) For an arts project that has an estimated construction 21678
cost, excluding the cost of acquisition, of twenty-five million 21679
dollars or more, and that is financed by the Ohio building 21680
authority, construction services may be provided by the authority 21681
if the authority determines it should provide those services. 21682

(2) For an arts project other than a state historical 21683
facility, construction services may be provided on behalf of the 21684
state by the Ohio arts and sports facilities commission, or by a 21685
governmental agency or an arts organization that occupies, will 21686
occupy, or is responsible for the Ohio arts facility, as 21687
determined by the commission. Construction services to be provided 21688
by a governmental agency or an arts organization shall be 21689
specified in an agreement between the commission and the 21690
governmental agency or arts organization. The agreement, or any 21691
actions taken under it, are not subject to Chapter 123. or 153. of 21692
the Revised Code, except for sections 123.151 and 153.011 of the 21693
Revised Code, and shall be subject to Chapter 4115. of the Revised 21694
Code. 21695

(3) For an arts project that is a state historical facility, 21696
construction services may be provided by the Ohio arts and sports 21697
facilities commission or by an arts organization that occupies, 21698
will occupy, or is responsible for the facility, as determined by 21699
the commission. The construction services to be provided by the 21700

arts organization shall be specified in an agreement between the 21701
commission and the arts organization. That agreement, and any 21702
actions taken under it, are not subject to Chapter 123., 153., or 21703
4115. of the Revised Code. 21704

(B) For an Ohio sports facility that is financed in part by 21705
the Ohio building authority, construction services shall be 21706
provided on behalf of the state by or at the direction of the 21707
governmental agency or nonprofit corporation that will own or be 21708
responsible for the management of the facility, all as determined 21709
by the Ohio arts and sports facilities commission. Any 21710
construction services to be provided by a governmental agency or 21711
nonprofit corporation shall be specified in an agreement between 21712
the commission and the governmental agency or nonprofit 21713
corporation. That agreement, and any actions taken under it, are 21714
not subject to Chapter 123. or 153. of the Revised Code, except 21715
for sections 123.151 and 153.011 of the Revised Code, and shall be 21716
subject to Chapter 4115. of the Revised Code. 21717

(C) General building services for an Ohio arts facility shall 21718
be provided by the Ohio arts and sports facilities commission or 21719
by an arts organization that occupies, will occupy, or is 21720
responsible for the facility, as determined by the commission, 21721
except that the Ohio building authority may elect to provide those 21722
services for Ohio arts facilities financed with proceeds of state 21723
bonds issued by the authority. The costs of management and general 21724
building services shall be paid by the arts organization that 21725
occupies, will occupy, or is responsible for the facility as 21726
provided in an agreement between the commission and the arts 21727
organization, except that the state may pay for general building 21728
services for state-owned arts facilities constructed on 21729
state-owned land. 21730

General building services for an Ohio sports facility shall 21731
be provided by or at the direction of the governmental agency or 21732

nonprofit corporation that will be responsible for the management 21733
of the facility, all as determined by the commission. Any general 21734
building services to be provided by a governmental agency or 21735
nonprofit corporation for an Ohio sports facility shall be 21736
specified in an agreement between the commission and the 21737
governmental agency or nonprofit corporation. That agreement, and 21738
any actions taken under it, are not subject to Chapter 123. or 21739
153. of the Revised Code, except for sections 123.151 and 153.011 21740
of the Revised Code, and shall be subject to Chapter 4115. of the 21741
Revised Code. 21742

(D) This division does not apply to a state historical 21743
facility. No state funds, including any state bond proceeds, shall 21744
be spent on the construction of any arts project under this 21745
chapter unless, with respect to the arts project and to the Ohio 21746
arts facility related to the project, all of the following apply: 21747

(1) The Ohio arts and sports facilities commission has 21748
determined that there is a need for the arts project and the Ohio 21749
arts facility related to the project in the region of the state in 21750
which the Ohio arts facility is located or for which the facility 21751
is proposed. 21752

(2) The commission has determined that, as an indication of 21753
substantial regional support for the arts project, the arts 21754
organization has made provision satisfactory to the commission, in 21755
its sole discretion, for local contributions amounting to not less 21756
than fifty per cent of the total state funding for the arts 21757
project. 21758

(3) The general assembly has specifically authorized the 21759
spending of money on, or made an appropriation for, the 21760
construction of the arts project, or for rental payments relating 21761
to the financing of the construction of the arts project. 21762
Authorization to spend money, or an appropriation, for planning 21763
the arts project does not constitute authorization to spend money 21764

on, or an appropriation for, construction of the arts project. 21765

(E) No state funds, including any state bond proceeds, shall 21766
be spent on the construction of any state historical facility 21767
under this chapter unless the general assembly has specifically 21768
authorized the spending of money on, or made an appropriation for, 21769
the construction of the arts project related to the facility, or 21770
for rental payments relating to the financing of the construction 21771
of the arts project. Authorization to spend money, or an 21772
appropriation, for planning the arts project does not constitute 21773
authorization to spend money on, or an appropriation for, the 21774
construction of the arts project. 21775

(F) State funds shall not be used to pay or reimburse more 21776
than fifteen per cent of the initial estimated construction cost 21777
of an Ohio sports facility, excluding any site acquisition cost, 21778
and no state funds, including any state bond proceeds, shall be 21779
spent on any Ohio sports facility under this chapter unless, with 21780
respect to that facility, all of the following apply: 21781

(1) The Ohio arts and sports facilities commission has 21782
determined that there is a need for the facility in the region of 21783
the state for which the facility is proposed to provide the 21784
function of an Ohio sports facility as provided for in this 21785
chapter. 21786

(2) As an indication of substantial local support for the 21787
facility, the commission has received a financial and development 21788
plan satisfactory to it, and provision has been made, by agreement 21789
or otherwise, satisfactory to the commission, for a contribution 21790
amounting to not less than eighty-five per cent of the total 21791
estimated construction cost of the facility, excluding any site 21792
acquisition cost, from sources other than the state. 21793

(3) The general assembly has specifically authorized the 21794
spending of money on, or made an appropriation for, the 21795

construction of the facility, or for rental payments relating to 21796
state financing of all or a portion of the costs of constructing 21797
the facility. Authorization to spend money, or an appropriation, 21798
for planning or determining the feasibility of or need for the 21799
facility does not constitute authorization to spend money on, or 21800
an appropriation for, costs of constructing the facility. 21801

(4) If state bond proceeds are being used for the Ohio sports 21802
facility, the state or a governmental agency owns or has 21803
sufficient property interests in the facility or in the site of 21804
the facility or in the portion or portions of the facility 21805
financed from proceeds of state bonds, which may include, but is 21806
not limited to, the right to use or to require the use of the 21807
facility for the presentation of sport and athletic events to the 21808
public at the facility, ~~extending for a period of not less than~~ 21809
~~the greater of the useful life of the portion of the facility~~ 21810
~~financed from proceeds of those bonds as determined using the~~ 21811
~~guidelines for maximum maturities as provided under divisions (B),~~ 21812
~~(C), and (D) of section 133.20 of the Revised Code, or the period~~ 21813
~~of time remaining to the date of payment or provision for payment~~ 21814
~~of outstanding state bonds allocable to costs of the facility, all~~ 21815
~~as determined by the director of budget and management and~~ 21816
~~certified by the director to the Ohio arts and sports facilities~~ 21817
~~commission and to the Ohio building authority.~~ 21818

Sec. 3501.011. (A) Except as otherwise provided in divisions 21819
(B) and (C) of this section, and except as otherwise provided in 21820
any section of Title XXXV of the Revised Code to the contrary, as 21821
used in the sections of the Revised Code relating to elections and 21822
political communications, whenever a person is required to sign or 21823
affix a signature to a declaration of candidacy, nominating 21824
petition, declaration of intent to be a write-in candidate, 21825
initiative petition, referendum petition, recall petition, or any 21826
other kind of petition, or to sign or affix a signature on any 21827

other document that is filed with or transmitted to a board of elections or the office of the secretary of state, "sign" or "signature" means that person's written, cursive-style legal mark written in that person's own hand. 21828
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(B) For persons who do not use a cursive-style legal mark during the course of their regular business and legal affairs, "sign" or "signature" means that person's other legal mark that the person uses during the course of that person's regular business and legal affairs that is written in the person's own hand. 21832
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(C) Any voter registration record requiring a person's signature shall be signed using the person's legal mark used in the person's regular business and legal affairs. For any purpose described in division (A) of this section, the legal mark of a registered elector shall be considered to be the mark of that elector as it appears on the elector's voter registration record. 21838
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Sec. 3501.18. (A) The board of elections may divide a political subdivision~~7~~ within its jurisdiction~~7~~ into precincts ~~and~~and establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction~~7~~ and change the location of the polling place for each precinct when it is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections, ~~provided that no~~ No change in the number of precincts or in precinct boundaries shall be made during the twenty-five days immediately preceding a primary or general election ~~nor~~ or between the first day of January and the day on which the members of county central committees are elected in the years in which those committees are elected. Except as otherwise provided in division (C) of this section, each precinct shall contain a number of electors, not to exceed one thousand 21844
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four hundred, that the board of elections determines to be a 21859
reasonable number after taking into consideration the type and 21860
amount of available equipment, prior voter turnout, the size and 21861
location of each selected polling place, available parking, 21862
availability of an adequate number of poll workers, and handicap 21863
accessibility and other accessibility to the polling place. 21864

If the board changes the boundaries of a precinct after the 21865
filing of a local option election petition pursuant to sections 21866
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 21867
calls for a local option election to be held in that precinct, the 21868
local option election shall be held in the area that constituted 21869
the precinct at the time the local option petition was filed, 21870
regardless of the change in the boundaries. 21871

If the board changes the boundaries of a precinct in order to 21872
meet the requirements of division (B)(1) of this section in a 21873
manner that causes a member of a county central committee to no 21874
longer qualify as a representative of an election precinct in the 21875
county, of a ward of a city in the county, or of a township in the 21876
county, the member shall continue to represent the precinct, ward, 21877
or township for the remainder of the member's term, regardless of 21878
the change in boundaries. 21879

In an emergency, the board may provide more than one polling 21880
place in a precinct. In order to provide for the convenience of 21881
the voters, the board may locate polling places for voting or 21882
registration outside the boundaries of precincts, provided that 21883
the nearest public school or public building shall be used if the 21884
board determines it to be available and suitable for use as a 21885
polling place. Except in an emergency, no change in the number or 21886
location of the polling places in a precinct shall be made during 21887
the twenty-five days immediately preceding a primary or general 21888
election. 21889

Electors who have failed to respond within thirty days to any 21890

confirmation notice shall not be counted in determining the size 21891
of any precinct under this section. 21892

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 21893
of this section, ~~not later than August 1, 2000, the~~ a board of 21894
elections shall determine all precinct boundaries using 21895
geographical units used by the United States department of 21896
commerce, bureau of the census, in reporting the decennial census 21897
of Ohio. 21898

~~(2) When any part of the boundary of a precinct also forms a 21899
part of the boundary of a legislative district and the precinct 21900
boundary cannot be determined by August 1, 2000, using the 21901
geographical units described in division (B)(1) of this section 21902
without making that part of the precinct boundary that also forms 21903
part of the legislative district boundary different from that 21904
legislative district boundary, the board of elections may 21905
determine the boundary of that precinct using the geographical 21906
units described in division (B)(1) of this section not later than 21907
April 1, 2002. As used in this division, legislative district 21908
means a district determined under Article XI of the Ohio 21909
Constitution. 21910~~

~~(3) The board of elections may apply to the secretary of 21911
state for a waiver from the requirement of division (B)(1) of this 21912
section when it is not feasible to comply with that requirement 21913
because of unusual physical boundaries or residential development 21914
practices that would cause unusual hardship for voters. The board 21915
shall identify the affected precincts and census units, explain 21916
the reason for the waiver request, and include a map illustrating 21917
where the census units will be split because of the requested 21918
waiver. If the secretary of state approves the waiver and so 21919
notifies the board of elections in writing, the board may change a 21920
precinct boundary as necessary under this section, notwithstanding 21921
the requirement in division (B)(1) of this section. 21922~~

(C) The board of elections may apply to the secretary of state for a waiver from the requirement of division (A) of this section regarding the number of electors in a precinct when the use of geographical units used by the United States department of commerce, bureau of the census, will cause a precinct to contain more than one thousand four hundred electors. The board shall identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where census units will be split because of the requested waiver. If the secretary of state approves the waiver and so notifies the board of elections in writing, the board may change a precinct boundary as necessary to meet the requirements of division (B)(1) of this section.

Sec. 3501.30. (A) The board of elections shall provide for each polling place the necessary ballot boxes, official ballots, cards of instructions, registration forms, pollbooks, or poll lists, tally sheets, forms on which to make summary statements, writing implements, paper, and all other supplies necessary for casting and counting the ballots and recording the results of the voting at ~~such the~~ polling place. ~~Such~~ The pollbooks or poll lists shall have certificates appropriately printed ~~thereon~~ on them for the signatures of all the precinct officials, by which they shall certify that, to the best of their knowledge and belief, ~~said the~~ pollbooks or poll lists correctly show the names of all electors who voted in ~~such the~~ polling place at the election indicated ~~therein~~ in the pollbook or poll list.

A All of the following shall be included among the supplies provided to each polling place:

(1) ~~A large map of each appropriate precinct shall be included among the supplies to each polling place,~~ which shall be displayed prominently to assist persons who desire to register or

vote on election day. Each map shall show all streets within the precinct and contain identifying symbols of the precinct in bold print.

~~Such supplies shall also include a~~ (2) Any materials, postings, or instructions required to comply with state or federal laws;

(3) A flag of the United States approximately two and one-half feet in length along the top, which shall be displayed outside the entrance to the polling place during the time it is open for voting. ~~Two;~~

(4) Two or more small flags of the United States approximately fifteen inches in length along the top ~~shall be provided and, which~~ shall be placed at a distance of one hundred feet from the polling place on the thoroughfares or walkways leading to the polling place, to mark the distance within which persons other than election officials, witnesses, challengers, police officers, and electors waiting to mark, marking, or casting their ballots shall not loiter, congregate, or engage in any kind of election campaigning. Where small flags cannot reasonably be placed one hundred feet from the polling place, the presiding election judge shall place the flags as near to one hundred feet from the entrance to the polling place as is physically possible. Police officers and all election officials shall see that this prohibition against loitering and congregating is enforced. ~~When~~

When the period of time during which the polling place is open for voting expires, all of ~~said~~ the flags described in this division shall be taken into the polling place, and shall be returned to the board together with all other election ~~materials~~ ~~and~~ supplies required to be delivered to ~~such~~ the board.

(B) The board of elections shall follow the instructions and advisories of the secretary of state in the production and use of

polling place supplies. 21985

Sec. 3503.10. (A) Each designated agency shall designate one 21986
person within that agency to serve as coordinator for the voter 21987
registration program within the agency and its departments, 21988
divisions, and programs. The designated person shall be trained 21989
under a program designed by the secretary of state and shall be 21990
responsible for administering all aspects of the voter 21991
registration program for that agency as prescribed by the 21992
secretary of state. The designated person shall receive no 21993
additional compensation for performing such duties. 21994

(B) Every designated agency, public high school and 21995
vocational school, public library, and office of a county 21996
treasurer shall provide in each of its offices or locations voter 21997
registration applications and assistance in the registration of 21998
persons qualified to register to vote, in accordance with this 21999
chapter. 22000

(C) Every designated agency shall distribute to its 22001
applicants, prior to or in conjunction with distributing a voter 22002
registration application, a form prescribed by the secretary of 22003
state that includes all of the following: 22004

(1) The question, "Do you want to register to vote or update 22005
your current voter registration?"--followed by boxes for the 22006
applicant to indicate whether the applicant would like to register 22007
or decline to register to vote, and the statement, highlighted in 22008
bold print, "If you do not check either box, you will be 22009
considered to have decided not to register to vote at this time."; 22010

(2) If the agency provides public assistance, the statement, 22011
"Applying to register or declining to register to vote will not 22012
affect the amount of assistance that you will be provided by this 22013
agency."; 22014

(3) The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.;"

(4) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the prosecuting attorney of your county or with the secretary of state," with the address and telephone number for each such official's office.

(D) Each designated agency shall distribute a voter registration form prescribed by the secretary of state to each applicant with each application for service or assistance, and with each written application or form for recertification, renewal, or change of address.

(E) Each designated agency shall do all of the following:

(1) Have employees trained to administer the voter registration program in order to provide to each applicant who wishes to register to vote and who accepts assistance, the same degree of assistance with regard to completion of the voter registration application as is provided by the agency with regard to the completion of its own form;

(2) Accept completed voter registration applications, voter registration change of residence forms, and voter registration change of name forms, regardless of whether the application or form was distributed by the designated agency, for transmittal to the office of the board of elections in the county in which the agency is located. Each designated agency and the appropriate board of elections shall establish a method by which the voter

registration applications and other voter registration forms are 22046
transmitted to that board of elections within five days after 22047
being accepted by the agency. 22048

(3) If the designated agency is one that is primarily engaged 22049
in providing services to persons with disabilities under a 22050
state-funded program, and that agency provides services to a 22051
person with disabilities at a person's home, provide the services 22052
described in divisions (E)(1) and (2) of this section at the 22053
person's home; 22054

(4) Keep as confidential, except as required by the secretary 22055
of state for record-keeping purposes, the identity of an agency 22056
through which a person registered to vote or updated the person's 22057
voter registration records, and information relating to a 22058
declination to register to vote made in connection with a voter 22059
registration application issued by a designated agency. 22060

(F) The secretary of state shall prepare and transmit written 22061
instructions on the implementation of the voter registration 22062
program within each designated agency, public high school and 22063
vocational school, public library, and office of a county 22064
treasurer. The instructions shall include directions as follows: 22065

(1) That each person designated to assist with voter 22066
registration maintain strict neutrality with respect to a person's 22067
political philosophies, a person's right to register or decline to 22068
register, and any other matter that may influence a person's 22069
decision to register or not register to vote; 22070

(2) That each person designated to assist with voter 22071
registration not seek to influence a person's decision to register 22072
or not register to vote, not display or demonstrate any political 22073
preference or party allegiance, and not make any statement to a 22074
person or take any action the purpose or effect of which is to 22075
lead a person to believe that a decision to register or not 22076

register has any bearing on the availability of services or 22077
benefits offered, on the grade in a particular class in school, or 22078
on credit for a particular class in school; 22079

(3) Regarding when and how to assist a person in completing 22080
the voter registration application, what to do with the completed 22081
voter registration application or voter registration update form, 22082
and when the application must be transmitted to the appropriate 22083
board of elections; 22084

(4) Regarding what records must be kept by the agency and 22085
where and when those records should be transmitted to satisfy 22086
reporting requirements imposed on the secretary of state under the 22087
National Voter Registration Act of 1993; 22088

(5) Regarding whom to contact to obtain answers to questions 22089
about voter registration forms and procedures. 22090

(G) If the voter registration activity is part of an in-class 22091
voter registration program in a public high school or vocational 22092
school, whether prescribed by the secretary of state or 22093
independent of the secretary of state, the board of education 22094
shall do all of the following: 22095

(1) Establish a schedule of school days and hours during 22096
these days when the person designated to assist with voter 22097
registration shall provide voter registration assistance; 22098

(2) Designate a person to assist with voter registration from 22099
the public high school's or vocational school's staff; 22100

(3) Make voter registration applications and materials 22101
available, as outlined in the voter registration program 22102
established by the secretary of state pursuant to section 3501.05 22103
of the Revised Code; 22104

(4) Distribute the statement, "applying to register or 22105
declining to register to vote will not affect or be a condition of 22106

your receiving a particular grade in or credit for a school course 22107
or class, participating in a curricular or extracurricular 22108
activity, receiving a benefit or privilege, or participating in a 22109
program or activity otherwise available to pupils enrolled in this 22110
school district's schools."; 22111

(5) Establish a method by which the voter registration 22112
application and other voter registration forms are transmitted to 22113
the board of elections within five days after being accepted by 22114
the public high school or vocational school. 22115

(H) Any person employed by the designated agency, public high 22116
school or vocational school, public library, or office of a county 22117
treasurer may be designated to assist with voter registration 22118
pursuant to this section. The designated agency, public high 22119
school or vocational school, public library, or office of a county 22120
treasurer shall provide the designated person, and make available 22121
such space as may be necessary, without charge to the county or 22122
state. 22123

(I) The secretary of state shall prepare and cause to be 22124
displayed in a prominent location in each designated agency a 22125
notice that identifies the person designated to assist with voter 22126
registration, the nature of that person's duties, and where and 22127
when that person is available for assisting in the registration of 22128
voters. 22129

A designated agency may furnish additional supplies and 22130
services to disseminate information to increase public awareness 22131
of the existence of a person designated to assist with voter 22132
registration in every designated agency. 22133

(J) This section does not limit any authority a board of 22134
education, superintendent, or principal has to allow, sponsor, or 22135
promote voluntary election registration programs within a high 22136
school or vocational school, including programs in which pupils 22137

serve as persons designated to assist with voter registration, 22138
provided that no pupil is required to participate. 22139

(K) Each public library and office of the county treasurer 22140
shall establish a method by which voter registration forms are 22141
transmitted to the board of elections within five days after being 22142
accepted by the public library or office of the county treasurer. 22143

(L) The department of job and family services and its 22144
departments, divisions, and programs shall limit administration of 22145
the aspects of the voter registration program for the department 22146
to the requirements prescribed by the secretary of state and the 22147
requirements of this section and the National Voter Registration 22148
Act of 1993. 22149

Sec. 3505.08. (A) Ballots shall be provided by the board of 22150
elections for all general and special elections. ~~Such~~ The ballots 22151
shall be printed with black ink on No. 2 white book paper fifty 22152
pounds in weight per ream assuming such ream to consist of five 22153
hundred sheets of such paper twenty-five by thirty-eight inches in 22154
size. Each ballot shall have attached at the top two stubs, each 22155
of the width of the ballot and not less than one-half inch in 22156
length, except that, if the board of elections has an alternate 22157
method to account for the ballots that the secretary of state has 22158
authorized, each ballot may have only one stub that shall be the 22159
width of the ballot and not less than one-half inch in length. In 22160
the case of ballots with two stubs, the stubs shall be separated 22161
from the ballot and from each other by perforated lines. The top 22162
stub shall be known as Stub B and shall have printed on its face 22163
"Stub B." The other stub shall be known as Stub A and shall have 22164
printed on its face "Stub A." Each stub shall also have printed on 22165
its face "Consecutive Number" ~~Each~~ 22166

Each ballot of each kind of ballot provided for use in each 22167
precinct shall be numbered consecutively beginning with number 1 22168

by printing such number upon both of the stubs attached ~~thereto to~~ to 22169
the ballot. On ballots bearing the names of candidates, each 22170
candidate's name shall be printed in twelve point boldface upper 22171
case type in an enclosed rectangular space, and an enclosed blank 22172
rectangular space shall be provided at the left ~~thereof of the~~ 22173
candidate's name. The name of the political party of a candidate 22174
nominated at a primary election or certified by a party committee 22175
shall be printed in ten point lightface upper and lower case type 22176
and shall be separated by a two point blank space. The name of 22177
each candidate shall be indented one space within ~~such the~~ 22178
enclosed rectangular space, and the name of the political party 22179
shall be indented two spaces within ~~such the enclosed~~ rectangular 22180
space. ~~The~~ 22181

The title of each office on ~~such the~~ ballots shall be printed 22182
in twelve point boldface upper and lower case type in a separate 22183
enclosed rectangular space. A four point rule shall separate the 22184
name of a candidate or a group of candidates for the same office 22185
from the title of the office next appearing below on the ballot, 22186
~~and~~ a two point rule shall separate the title of the office from 22187
the names of candidates, and a one point rule shall separate names 22188
of candidates. Headings shall be printed in display Roman type. 22189
When the names of several candidates are grouped together as 22190
candidates for the same office, there shall be printed on ~~such the~~ 22191
ballots immediately below the title of ~~such the~~ office and within 22192
the separate rectangular space in which ~~such the~~ title is printed 22193
"Vote for not more than," in six point boldface upper and 22194
lower case filling the blank space with that number which will 22195
indicate the number of persons who may be lawfully elected to ~~such~~ 22196
the office. 22197

Columns on ballots shall be separated from each other by a 22198
heavy vertical border or solid line at least one-eighth of an inch 22199
wide, and a similar vertical border or line shall enclose the left 22200

and right side of ballots, ~~and ballots.~~ Ballots shall be trimmed 22201
along the sides close to such lines. 22202

The ballots provided for by this section shall be comprised 22203
of four kinds of ballots designated as follows: ~~(A)~~ office type 22204
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 22205
~~(D)~~ and presidential ballot. 22206

On the back of each office type ballot shall be printed 22207
"Official Office Type Ballot;" on the back of each nonpartisan 22208
ballot shall be printed "Official Nonpartisan Ballot;" on the back 22209
of each questions and issues ballot shall be printed "Official 22210
Questions and Issues Ballot;" and on the back of each presidential 22211
ballot shall be printed "Official Presidential Ballot." On the 22212
back of every ballot also shall be printed the date of the 22213
election at which the ballot is used and the facsimile signatures 22214
of the members of the board of the county in which the ballot is 22215
used. For the purpose of identifying the kind of ballot, the back 22216
of every ballot may be numbered in ~~such~~ the order ~~as~~ the board 22217
shall determine. ~~Such~~ The numbers shall be printed in not less 22218
than thirty-six point type above the words "Official Office Type 22219
Ballot," "Official Nonpartisan Ballot," "Official Questions and 22220
Issues Ballot," or "Official Presidential Ballot," as the case may 22221
be. Ballot boxes bearing corresponding numbers shall be furnished 22222
for each precinct in which the above-described numbered ballots 22223
are used. 22224

On the back of every ballot used, there shall be a solid 22225
black line printed opposite the blank rectangular space that is 22226
used to mark the choice of the voter. This line shall be printed 22227
wide enough so that the mark in the blank rectangular space will 22228
not be visible from the back side of the ballot. 22229

Sample ballots may be printed by the board of elections for 22230
all general elections. ~~Such~~ The ballots shall be printed on 22231
colored paper, and "Sample Ballot" shall be plainly printed in 22232

boldface type on the face of each ballot. In counties of less than 22233
one hundred thousand population, the board may print not more than 22234
five hundred sample ballots; in all other counties, it may print 22235
not more than one thousand sample ballots. ~~Such~~ The sample ballots 22236
shall not be distributed by a political party or a candidate, nor 22237
shall a political party or candidate cause their title or name to 22238
be imprinted ~~thereon~~ on sample ballots. 22239

(B) Notwithstanding division (A) of this section, in 22240
approving the form of an official ballot, the secretary of state 22241
may authorize the use of fonts, type face settings, and ballot 22242
formats other than those prescribed in that division. 22243

Sec. 3517.092. (A) As used in this section: 22244

(1) "Appointing authority" has the same meaning as in section 22245
124.01 of the Revised Code. 22246

(2) "State elected officer" means any person appointed or 22247
elected to a state elective office. 22248

(3) "State elective office" means any of the offices of 22249
governor, lieutenant governor, secretary of state, auditor of 22250
state, treasurer of state, attorney general, member of the state 22251
board of education, member of the general assembly, and justice 22252
and chief justice of the supreme court. 22253

(4) "County elected officer" means any person appointed or 22254
elected to a county elective office. 22255

(5) "County elective office" means any of the offices of 22256
county auditor, county treasurer, clerk of the court of common 22257
pleas, sheriff, county recorder, county engineer, county 22258
commissioner, prosecuting attorney, and coroner. 22259

(6) "Contribution" includes a contribution to any political 22260
party, campaign committee, political action committee, political 22261
contributing entity, or legislative campaign fund. 22262

(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 a contribution on behalf of that officer or that officer's campaign committee from any of the following:

(1) A county employee whose appointing authority is the county elected officer;

(2) A county employee whose appointing authority is authorized or required by law to be appointed by the county elected officer;	22293 22294 22295
(3) A county employee who functions in or is employed in or by the same public agency, department, division, or office as the county elected officer.	22296 22297 22298
(E) No candidate for a county elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:	22299 22300 22301 22302
(1) A county employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;	22303 22304
(2) A county employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if elected, as authorized or required by law;	22305 22306 22307
(3) A county 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.	22308 22309 22310
(F)(1) No public employee shall solicit a contribution from any person while the public employee is performing the public employee's official duties or in those areas of a public building where official business is transacted or conducted.	22311 22312 22313 22314
(2) No person shall solicit a contribution from any public employee while the public employee is performing the public employee's official duties or is in those areas of a public building where official business is transacted or conducted.	22315 22316 22317 22318
(3) As used in division (F) of this section, "public employee" does not include any person holding an elective office.	22319 22320
(G) The prohibitions in divisions (B), (C), (D), (E), and (F) of this section are in addition to the prohibitions in sections	22321 22322

124.57, ~~1553.09~~, 3304.22, and 4503.032 of the Revised Code. 22323

Sec. 3701.021. (A) The public health council shall adopt, in 22324
accordance with Chapter 119. of the Revised Code, such rules as 22325
are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 22326
of the Revised Code, including, but not limited to, rules to 22327
establish the following: 22328

(1) Medical and financial eligibility requirements for the 22329
program for medically handicapped children; 22330

(2) Eligibility requirements for providers of services for 22331
medically handicapped children; 22332

(3) Procedures to be followed by the department of health in 22333
disqualifying providers for violating requirements adopted under 22334
division (A)(2) of this section; 22335

(4) Procedures to be used by the department regarding 22336
application for diagnostic services under division (B) of section 22337
3701.023 of the Revised Code and payment for those services under 22338
division (E) of that section; 22339

(5) Standards for the provision of service coordination by 22340
the department of health and city and general health districts; 22341

(6) Procedures for the department to use to determine the 22342
amount to be paid annually by each county for services for 22343
medically handicapped children and to allow counties to retain 22344
funds under divisions (A)(2) and (3) of section 3701.024 of the 22345
Revised Code; 22346

(7) Financial eligibility requirements for services for Ohio 22347
residents twenty-one years of age or older who have cystic 22348
fibrosis; 22349

(8) Criteria for payment of approved providers who provide 22350
services for medically handicapped children; 22351

(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;

(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;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.

(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~~ 3701.0210 of the Revised Code.

Sec. 3701.022. As used in sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code:

(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.

(B) "Provider" means a health professional, hospital, medical equipment supplier, and any individual, group, or agency that is approved by the department of health pursuant to division (C) of section 3701.023 of the Revised Code and that provides or intends to provide goods or services to a child who is eligible for the program for medically handicapped children.

(C) "Service coordination" means case management services provided to medically handicapped children that promote effective

and efficient organization and utilization of public and private 22382
resources and ensure that care rendered is family-centered, 22383
community-based, and coordinated. 22384

(D)(1) "Third party" means any person or government entity 22385
other than the following: 22386

(a) A medically handicapped child participating in the 22387
program for medically handicapped children or the child's parent 22388
or guardian; 22389

(b) The department or any program administered by the 22390
department, including the "Maternal and Child Health Block Grant," 22391
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 22392
U.S.C.A. 701, as amended; 22393

(c) The "caring program for children" operated by the 22394
nonprofit community mutual insurance corporation. 22395

(2) "Third party" includes all of the following: 22396

(a) Any trust established to benefit a medically handicapped 22397
child participating in the program or the child's family or 22398
guardians, if the trust was established after the date the 22399
medically handicapped child applied to participate in the program; 22400

(b) That portion of a trust designated to pay for the medical 22401
and ancillary care of a medically handicapped child, if the trust 22402
was established on or before the date the medically handicapped 22403
child applied to participate in the program; 22404

(c) The program awarding reparations to victims of crime 22405
established under sections 2743.51 to 2743.72 of the Revised Code. 22406

(E) "Third-party benefits" means any and all benefits paid by 22407
a third party to or on behalf of a medically handicapped child 22408
participating in the program or the child's parent or guardian for 22409
goods or services that are authorized by the department pursuant 22410
to division (B) or (D) of section 3701.023 of the Revised Code. 22411

(F) "Hemophilia program" means the hemophilia program the 22412
department of health is required to establish and administer under 22413
section 3701.029 of the Revised Code. 22414

Sec. 3701.024. (A)(1) Under a procedure established in rules 22415
adopted under section 3701.021 of the Revised Code, the department 22416
of health shall determine the amount each county shall provide 22417
annually for the program for medically handicapped children, based 22418
on a proportion of the county's total general property tax 22419
duplicate, not to exceed one-tenth of a mill ~~through fiscal year~~ 22420
~~2005 and three tenths of a mill thereafter~~, and charge the county 22421
for any part of expenses incurred under the program for treatment 22422
services on behalf of medically handicapped children having legal 22423
settlement in the county that is not paid from federal funds or 22424
through the medical assistance program established under section 22425
5111.01 of the Revised Code. The department shall not charge the 22426
county for expenses exceeding the difference between the amount 22427
determined under division (A)(1) of this section and any amounts 22428
retained under divisions (A)(2) and (3) of this section. 22429

All amounts collected by the department under division (A)(1) 22430
of this section shall be deposited into the state treasury to the 22431
credit of the medically handicapped children-county assessment 22432
fund, which is hereby created. The fund shall be used by the 22433
department to comply with sections 3701.021 to 3701.028 of the 22434
Revised Code. 22435

(2) The department, in accordance with rules adopted under 22436
section 3701.021 of the Revised Code, may allow each county to 22437
retain up to ten per cent of the amount determined under division 22438
(A)(1) of this section to provide funds to city or general health 22439
districts of the county with which the districts shall provide 22440
service coordination, public health nursing, or transportation 22441
services for medically handicapped children. 22442

(3) In addition to any amount retained under division (A)(2) 22443
of this section, the department, in accordance with rules adopted 22444
under section 3701.021 of the Revised Code, may allow counties 22445
that it determines have significant numbers of potentially 22446
eligible medically handicapped children to retain an amount equal 22447
to the difference between: 22448

(a) Twenty-five per cent of the amount determined under 22449
division (A)(1) of this section; 22450

(b) Any amount retained under division (A)(2) of this 22451
section. 22452

Counties shall use amounts retained under division (A)(3) of 22453
this section to provide funds to city or general health districts 22454
of the county with which the districts shall conduct outreach 22455
activities to increase participation in the program for medically 22456
handicapped children. 22457

(4) Prior to any increase in the millage charged to a county, 22458
the public health council shall hold a public hearing on the 22459
proposed increase and shall give notice of the hearing to each 22460
board of county commissioners that would be affected by the 22461
increase at least thirty days prior to the date set for the 22462
hearing. Any county commissioner may appear and give testimony at 22463
the hearing. Any increase in the millage any county is required to 22464
provide for the program for medically handicapped children shall 22465
be determined, and notice of the amount of the increase shall be 22466
provided to each affected board of county commissioners, no later 22467
than the first day of June of the fiscal year next preceding the 22468
fiscal year in which the increase will take effect. 22469

(B) Each board of county commissioners shall establish a 22470
medically handicapped children's fund and shall appropriate 22471
thereto an amount, determined in accordance with division (A)(1) 22472
of this section, for the county's share in providing medical, 22473

surgical, and other aid to medically handicapped children residing 22474
in such county and for the purposes specified in divisions (A)(2) 22475
and (3) of this section. Each county shall use money retained 22476
under divisions (A)(2) and (3) of this section only for the 22477
purposes specified in those divisions. 22478

Sec. 3701.029. Subject to available funds, the department of 22479
health shall establish and administer a hemophilia program to 22480
provide payment of health insurance premiums for Ohio residents 22481
who meet all of the following requirements: 22482

(A) Have been diagnosed with hemophilia or a related bleeding 22483
disorder; 22484

(B) Are at least twenty-one years of age; 22485

(C) Meet the eligibility requirements established by rules 22486
adopted under division (A)(12) of section 3701.021 of the Revised 22487
Code. 22488

~~Sec. 3701.145~~ 3701.0210. The ~~director of health~~ medically 22489
handicapped children's medical advisory council shall ~~establish~~ 22490
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 22491
director ~~and the department~~ of health and council on all matters 22492
pertaining to the care and treatment of persons with hemophilia. 22493
The ~~council~~ subcommittee shall consist of not fewer than ~~nineteen~~ 22494
fifteen members, each of whom shall be appointed ~~by the director~~ 22495
to terms of four years. The members of the ~~council~~ subcommittee 22496
shall elect a chairperson from among the appointed membership to 22497
serve a term of two years. Members of the ~~council~~ subcommittee 22498
shall serve without compensation, except that they may be 22499
reimbursed for travel expenses to and from meetings of the ~~council~~ 22500
subcommittee. 22501

Members shall be appointed to represent all geographic areas 22502
of this state. Not fewer than five members of the ~~council~~ 22503

subcommittee shall be persons with hemophilia or family members of 22504
persons with hemophilia. Not fewer than five members shall be 22505
providers of health care services to persons with hemophilia. Not 22506
fewer than five members shall be experts in fields of importance 22507
to treatment of persons with hemophilia, including experts in 22508
infectious diseases, insurance, and law. 22509

~~The council shall submit to the director of health, the 22510
governor, and the general assembly, a report no later than the 22511
thirtieth day of September of each year summarizing the current 22512
status and needs of persons in this state with hemophilia and of 22513
family members of persons with hemophilia.~~ 22514

Notwithstanding section 101.83 of the Revised Code, that 22515
section does not apply to the medically handicapped children's 22516
medical advisory council hemophilia advisory subcommittee, and the 22517
subcommittee shall not expire under that section. 22518

Sec. 3701.141. (A) There is hereby created in the department 22519
of health the ~~office of women's health initiatives~~ program, 22520
~~consisting of the chief of the office and an administrative 22521
assistant. To the extent of available funds, other positions 22522
determined necessary and relevant by the director of health may be 22523
added. The administrative assistant and all other employees 22524
assigned to the office shall report to the chief and the chief to 22525
the director or the deputy specified by the director.~~ 22526

(B) To the extent funds are available, the ~~office of women's 22527
health initiatives~~ program shall: 22528

(1) Identify, review, and assist the director in the 22529
coordination of programs and resources the department of health is 22530
committing to women's health concerns, including the department's 22531
women's and infants' program activities; 22532

(2) Advocate for women's health by requesting that the 22533

department conduct, sponsor, encourage, or fund research; 22534
establish additional programs regarding women's health concerns as 22535
needed; and monitor the research and program efforts; 22536

(3) Collect, classify, and store relevant research conducted 22537
by the department or other entities, and provide, unless otherwise 22538
prohibited by law, interested persons access to research results; 22539

(4) ~~Generate~~ Apply for grant ~~activities~~ opportunities. 22540

~~(C) Prior to the director's report to the governor on the 22541
department's biennial budget request, the office of women's health 22542
initiatives shall submit in writing to the director of health a 22543
biennial report of recommended programs, projects, and research to 22544
address critical issues in women's health. 22545~~

Sec. 3701.46. In reporting every birth ~~and, still birth, or~~ 22546
fetal death, physicians and others required to make the reports 22547
shall state on the birth, still birth, or fetal death certificate, 22548
~~as the case may be,~~ whether approved tests for syphilis and 22549
gonorrhoea have been made in an approved laboratory upon specimens 22550
taken from the woman who bore the child for which the certificate 22551
is filed, and the approximate date when the specimens were taken. 22552
If the tests were not made, the physician or other person shall 22553
state the reasons why the tests were not made. In no event shall 22554
the results of the tests be stated on the ~~birth or fetal death~~ 22555
certificate. 22556

Sec. 3701.61. (A) The department of health shall establish 22557
the help me grow program for the purpose of encouraging early 22558
prenatal and well-baby care. The program shall include 22559
distributing subsidies to counties to provide the following 22560
services: 22561

(1) Home-visiting services to newborn infants and their 22562
families; 22563

(2) Services to infants and toddlers under three years of age who are at risk for, or who have, a developmental delay or disability and their families. 22564
22565
22566

(B) The department shall not provide home-visiting services under the help me grow program unless requested in writing by a parent of the infant or toddler. 22567
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(C) Pursuant to Chapter 119. of the Revised Code, the department shall adopt rules that are necessary and proper to implement this section. 22570
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22572

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund. 22573
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(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following: 22581
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22583

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section. 22584
22585
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(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other 22589
22590
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administrative costs. The director of health shall provide to each 22594
health care facility or provider inspected pursuant to section 22595
3702.15 or 3702.30 of the Revised Code a written statement of the 22596
fee. The statement shall itemize and total the costs incurred. 22597
Within fifteen days after receiving a statement from the director, 22598
the facility or provider shall forward the total amount of the fee 22599
to the director. 22600

(3) The fees described in divisions (B)(1) and (2) of this 22601
section shall meet both of the following requirements: 22602

(a) For each service described in section 3702.11 of the 22603
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 22604
hundred fifty dollars annually, except that the total fees charged 22605
to a health care provider under this section shall not exceed five 22606
thousand dollars annually. 22607

(b) The fee shall exclude any costs reimbursable by the 22608
United States health care financing administration as part of the 22609
certification process for the medicare program established under 22610
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 22611
U.S.C.A. 301, as amended, and the medicaid program established 22612
under Title XIX of that act. 22613

(4) The director shall not establish a fee for any service 22614
for which a licensure or inspection fee is paid by the health care 22615
provider to a state agency for the same or similar licensure or 22616
inspection. 22617

Sec. 3702.63. As specified in former Section 11 of Am. Sub. 22618
S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 22619
405 of the 124th general assembly, all of the following apply: 22620

(A) The removal of former divisions (E) and (F) of section 22621
3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 22622
50 of the 121st general assembly does not release the holders of 22623

certificates of need issued under those divisions from complying 22624
with any conditions on which the granting of the certificates of 22625
need was based, including the requirement of former division 22626
(E)(6) of that section that the holders not enter into provider 22627
agreements under Chapter 5111. of the Revised Code and Title XIX 22628
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 22629
as amended, for at least ten years following initial licensure of 22630
the long-term care facilities for which the certificates were 22631
granted. 22632

(B) The repeal of section 3702.55 of the Revised Code by 22633
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 22634
not release the holders of certificates of need issued under that 22635
section from complying with any conditions on which the granting 22636
of the certificates of need was based, other than the requirement 22637
of division (A)(6) of that section that the holders not seek 22638
certification under Title XVIII of the "Social Security Act" for 22639
beds recategorized under the certificates. That repeal also does 22640
not eliminate the requirement that the director of health revoke 22641
the licensure of the beds under Chapter 3721. of the Revised Code 22642
if a person to which their ownership is transferred fails, as 22643
required by division (A)(6) of the repealed section, to file 22644
within ten days after the transfer a sworn statement not to seek 22645
certification under Title XIX of the "Social Security Act" for 22646
beds recategorized under the certificates of need. 22647

(C) The repeal of section 3702.56 of the Revised Code by 22648
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 22649
not release the holders of certificates of need issued under that 22650
section from complying with any conditions on which the granting 22651
of the certificates of need was based. 22652

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 22653
of the Revised Code, this section applies to the review of 22654

certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~2003~~ 2005.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this

section may be resubmitted in accordance with section 3702.52 of 22686
the Revised Code no sooner than July 1, ~~2003~~ 2005. 22687

(2) The director shall continue to review and shall issue a 22688
decision regarding any application submitted prior to July 1, 22689
1993, to increase beds for either of the purposes described in 22690
division (B)(1)(a) or (b) of this section if the proposed increase 22691
in beds is attributable solely to a replacement or relocation of 22692
existing beds within the same county. The director shall authorize 22693
under such an application no additional beds beyond those being 22694
replaced or relocated. 22695

(C)(1) Except as provided in division (C)(2) of this section, 22696
the director, during the period beginning July 1, 1993, and ending 22697
June 30, ~~2003~~ 2005, shall not accept for review under section 22698
3702.52 of the Revised Code any application for a certificate of 22699
need for any of the purposes described in divisions (B)(1)(a) to 22700
(c) of this section. 22701

(2) The director shall accept for review any application for 22702
either of the purposes described in division (B)(1)(a) or (b) of 22703
this section if the proposed increase in beds is attributable 22704
solely to a replacement or relocation of existing beds within the 22705
same county. The director shall authorize under such an 22706
application no additional beds beyond those being replaced or 22707
relocated. The director also shall accept for review any 22708
application that seeks certificate of need approval for existing 22709
beds located in an infirmary that is operated exclusively by a 22710
religious order, provides care exclusively to members of religious 22711
orders who take vows of celibacy and live by virtue of their vows 22712
within the orders as if related, and was providing care 22713
exclusively to members of such a religious order on January 1, 22714
1994. 22715

(D) The director shall issue a decision regarding any case 22716
remanded by a court as the result of a decision issued by the 22717

director prior to July 1, 1993, to grant, deny, or withdraw a 22718
certificate of need for any of the purposes described in divisions 22719
(B)(1)(a) to (c) of this section. 22720

(E) The director shall not project the need for beds listed 22721
in division (B)(1) of this section for the period beginning July 22722
1, 1993, and ending June 30, ~~2003~~ 2005. 22723

This section is an interim section effective until July 1, 22724
~~2003~~ 2005. 22725

Sec. 3702.74. (A) A primary care physician who has signed a 22726
letter of intent under section 3702.73 of the Revised Code, the 22727
director of health, and the Ohio board of regents may enter into a 22728
contract for the physician's participation in the physician loan 22729
repayment program. A lending institution may also be a party to 22730
the contract. 22731

(B) The contract shall include all of the following 22732
obligations: 22733

(1) The primary care physician agrees to provide primary care 22734
services in the health resource shortage area identified in the 22735
letter of intent for at least two years or one year per twenty 22736
thousand dollars of repayment agreed to under division (B)(3) of 22737
this section, whichever is greater; 22738

(2) When providing primary care services in the health 22739
resource shortage area, the primary care physician agrees to do 22740
all of the following: 22741

(a) Provide primary care services for a minimum of forty 22742
hours per week; 22743

(b) Provide primary care services without regard to a 22744
patient's ability to pay; 22745

(c) Meet the conditions prescribed by the "Social Security 22746
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 22747

department of job and family services for participation in the 22748
medical assistance program established under Chapter 5111. of the 22749
Revised Code and enter into a contract with the department to 22750
provide primary care services to recipients of the medical 22751
assistance program; 22752

(d) Meet the conditions established by the department of job 22753
and family services for participation in the disability ~~assistance~~ 22754
medical assistance program established under Chapter 5115. of the 22755
Revised Code and enter into a contract with the department to 22756
provide primary care services to recipients of disability medical 22757
assistance. 22758

(3) The Ohio board of regents agrees, as provided in section 22759
3702.75 of the Revised Code, to repay, so long as the primary care 22760
physician performs the service obligation agreed to under division 22761
(B)(1) of this section, all or part of the principal and interest 22762
of a government or other educational loan taken by the primary 22763
care physician for expenses described in section 3702.75 of the 22764
Revised Code; 22765

(4) The primary care physician agrees to pay the board the 22766
following as damages if the physician fails to complete the 22767
service obligation agreed to under division (B)(1) of this 22768
section: 22769

(a) If the failure occurs during the first two years of the 22770
service obligation, three times the total amount the board has 22771
agreed to repay under division (B)(3) of this section; 22772

(b) If the failure occurs after the first two years of the 22773
service obligation, three times the amount the board is still 22774
obligated to repay under division (B)(3) of this section. 22775

(C) The contract may include any other terms agreed upon by 22776
the parties, including an assignment to the Ohio board of regents 22777
of the physician's duty to pay the principal and interest of a 22778

government or other educational loan taken by the physician for 22779
expenses described in section 3702.75 of the Revised Code. If the 22780
board assumes the physician's duty to pay a loan, the contract 22781
shall set forth the total amount of principal and interest to be 22782
paid, an amortization schedule, and the amount of each payment to 22783
be made under the schedule. 22784

Sec. 3705.01. As used in this chapter: 22785

(A) "Live birth" means the complete expulsion or extraction 22786
from its mother of a product of human conception that after such 22787
expulsion or extraction breathes or shows any other evidence of 22788
life such as beating of the heart, pulsation of the umbilical 22789
cord, or definite movement of voluntary muscles, whether or not 22790
the umbilical cord has been cut or the placenta is attached. 22791

(B) "Fetal death" means death caused by abortion prior to the 22792
complete expulsion or extraction from its mother of a product of 22793
human conception of at least twenty weeks of gestation, ~~which~~ 22794
~~after such expulsion or extraction does not breathe or show any~~ 22795
~~other evidence of life such as beating of the heart, pulsation of~~ 22796
~~the umbilical cord, or definite movement of voluntary muscles.~~ 22797

(C) "Still birth" means death prior to the complete expulsion 22798
or extraction from its mother of a product of human conception of 22799
at least twenty weeks of gestation, which after expulsion or 22800
extraction does not breathe or show any other evidence of life 22801
such as beating of the heart, pulsation of the umbilical cord, or 22802
definitive movement of the voluntary muscles. 22803

(D) "Dead body" means a human body or part of a human body 22804
from the condition of which it reasonably may be concluded that 22805
death recently occurred. 22806

~~(D)~~(E) "Physician" means a person licensed pursuant to 22807
Chapter 4731. of the Revised Code to practice medicine or surgery 22808

or osteopathic medicine and surgery. 22809

~~(E)~~(F) "Attending physician" means the physician in charge of 22810
the patient's care for the illness or condition that resulted in 22811
death. 22812

~~(F)~~(G) "Institution" means any establishment, public or 22813
private, that provides medical, surgical, or diagnostic care or 22814
treatment, or domiciliary care, to two or more unrelated 22815
individuals, or to persons committed by law. 22816

~~(G)~~(H) "Funeral director" has the meaning given in section 22817
4717.01 of the Revised Code. 22818

~~(H)~~(I) "State registrar" means the head of the office of 22819
vital statistics in the department of health. 22820

~~(I)~~(J) "Medical certification" means completion of the 22821
medical certification portion of the certificate of death ~~or~~, 22822
fetal death, or still birth as to the cause of death ~~or~~, fetal 22823
death, or still birth. 22824

~~(J)~~(K) "Final disposition" means the interment, cremation, 22825
removal from the state, donation, or other authorized disposition 22826
of a dead body ~~or a~~, fetal death, or still birth. 22827

~~(K)~~(L) "Interment" means the final disposition of the remains 22828
of a dead body by burial or entombment. 22829

~~(L)~~(M) "Cremation" means the reduction to ashes of a dead 22830
body. 22831

~~(M)~~(N) "Donation" means gift of a dead body to a research 22832
institution or medical school. 22833

~~(N)~~(O) "System of vital statistics" means the registration, 22834
collection, preservation, amendment, and certification of vital 22835
records, the collection of other reports required by this chapter, 22836
and activities related thereto. 22837

~~(O)~~(P) "Vital records" means certificates or reports of 22838

birth, ~~death~~, still birth, fetal death, death, marriage, divorce, 22839
dissolution of marriage, annulment, and data related thereto and 22840
other documents maintained as required by statute. 22841

~~(P)~~(O) "File" means the presentation of vital records for 22842
registration by the office of vital statistics. 22843

~~(Q)~~(R) "Registration" means the acceptance by the office of 22844
vital statistics and the incorporation of vital records into its 22845
official records. 22846

~~(R)~~(S) "Birth record" means a birth certificate that has been 22847
registered with the office of vital statistics; or, if registered 22848
prior to the effective date of this section, with the division of 22849
vital statistics; or, if registered prior to the establishment of 22850
the division of vital statistics, with the department of health or 22851
a local registrar. 22852

~~(S)~~(T) "Certification of birth" means a document issued by 22853
the director of health or state registrar or a local registrar 22854
under division (B) of section 3705.23 of the Revised Code. 22855

Sec. 3705.02. A statewide system of registration of births, 22856
still births, fetal deaths, deaths, ~~fetal deaths~~, and other vital 22857
statistics is hereby established, which ~~shall consist~~ consists of 22858
the office of vital statistics in the department of health and 22859
primary registration districts. The office of vital statistics 22860
shall be maintained at the capital of the state and shall be 22861
provided with sufficient staff, suitable offices, and other 22862
resources for the proper administration of the system of vital 22863
statistics and for the preservation of its official records. The 22864
director of health shall have charge of the system of vital 22865
statistics, enforce sections 3705.01 to 3705.29 of the Revised 22866
Code, and prepare and issue instructions necessary to secure the 22867
uniform observance of ~~such~~ those sections. The director shall 22868
adopt rules as necessary to ~~insure~~ ensure that this state shall 22869

have a complete and accurate registration of vital statistics. No 22870
system of registration of births, ~~deaths~~, still births, fetal 22871
deaths, deaths, or other vital statistics shall be maintained in 22872
any political subdivision in conflict with ~~such~~ those sections. 22873

Sec. 3705.06. The local registrar of vital statistics shall 22874
supply blank forms of certificates and instructions to such 22875
persons as require them, and shall require each birth, still 22876
birth, fetal death, or death certificate, when presented for 22877
filing, to be made out in accordance with sections 3705.01 to 22878
3705.29 of the Revised Code, the rules adopted by the director of 22879
health, and the registration instructions of the director. If a 22880
birth, still birth, fetal death, or death certificate is 22881
incomplete or unsatisfactory, the local registrar shall indicate 22882
the defects therein and withhold registering the certificate or 22883
issuing a burial permit until such certificate is corrected. 22884

Sec. 3705.07. (A) The local registrar of vital statistics 22885
shall number consecutively the birth, still birth, fetal death, 22886
and death certificates in ~~three~~ four separate series, beginning 22887
with "number one" for the first birth, the first still birth, the 22888
first fetal death, and the first death registered in each calendar 22889
year. Such local registrar shall sign the local registrar's name 22890
in attest to the date of filing in the local office. The local 22891
registrar shall make a complete and accurate copy of each birth, 22892
still birth, fetal death, and death certificate registered. Each 22893
copy shall be filed and permanently preserved as the local record 22894
of such birth, still birth, fetal death, or death except as 22895
provided in sections 3705.09 and 3705.12 of the Revised Code. The 22896
local record may be a typewritten, photographic, electronic, or 22897
other reproduction. On or before the tenth day of each month, the 22898
local registrar shall transmit to the state office of vital 22899
statistics all original birth, still birth, fetal death, death, 22900

and military service certificates received, and all social 22901
security numbers obtained under section 3705.09, 3705.10, or 22902
3705.16 of the Revised Code, during the preceding month. The local 22903
registrar shall immediately notify the health commissioner with 22904
jurisdiction in the registration district of the receipt of a 22905
death certificate attesting that death resulted from a 22906
communicable disease. 22907

The office of vital statistics shall carefully examine the 22908
records and certificates received from local registrars of vital 22909
statistics and shall secure any further information that may be 22910
necessary to make each record and certificate complete and 22911
satisfactory. It shall arrange and preserve the records and 22912
certificates, or reproductions of them produced pursuant to 22913
section 3705.03 of the Revised Code, in a systematic manner and 22914
shall maintain a permanent index of all births, still births, 22915
fetal deaths, and deaths registered, which shall show the name of 22916
the child or deceased person, place and date of birth or death, 22917
number of the record or certificate, and the volume in which it is 22918
contained. 22919

(B)(1) The office of vital statistics shall make available to 22920
the division of child support in the department of job and family 22921
services all social security numbers that were furnished to a 22922
local registrar of vital statistics under division (I) of section 22923
3705.09 or under section 3705.10 or 3705.16 of the Revised Code 22924
and that were transmitted to the office under division (A) of this 22925
section. 22926

(2) The office of vital statistics also shall make available 22927
to the division of child support in the department of job and 22928
family services any other information recorded in the birth record 22929
that may enable the division to use the social security numbers 22930
provided under division (B)(1) of this section to obtain the 22931
location of the father of the child whose birth certificate was 22932

accompanied by the social security number or to otherwise enforce 22933
a child support order pertaining to that child or any other child. 22934

Sec. 3705.08. The director of health, by rule, shall 22935
prescribe the form of records and certificates required by this 22936
chapter. Records and certificates shall include the items and 22937
information prescribed by the director, including the items 22938
recommended by the national center for health statistics of the 22939
United States department of health and human services, subject to 22940
approval of and modification by the director, and all birth 22941
certificates shall include a statement setting forth the names of 22942
the child's parents and a line for the mother's and the father's 22943
signature. 22944

The director shall prescribe methods, forms, and blanks and 22945
shall furnish necessary postage, forms, and blanks for obtaining 22946
registration of births, deaths, and other vital statistics in each 22947
registration district, and for preserving the records of the 22948
office of vital statistics, and no forms or blanks shall be used 22949
other than those prescribed by the director. 22950

All birth, still birth, fetal death, and death records and 22951
certificates shall be printed legibly or typewritten in unfading 22952
black ink and signed. Except as provided in division (G) of 22953
section 3705.09, division (A) of section 3705.12, division (D) of 22954
section 3705.15, or section 3705.16 of the Revised Code, a 22955
signature required on a birth, still birth, fetal death, or death 22956
certificate shall be written by the person required to sign and a 22957
facsimile signature shall not be used. 22958

All vital records shall contain the date received for 22959
registration. 22960

Information required in certificates, records, or reports 22961
authorized by this chapter may be filed and registered by 22962
photographic, electronic, or other means as prescribed by the 22963

director. 22964

Sec. 3705.16. Each death, still birth, or fetal death that 22965
occurs in this state shall be registered with the local registrar 22966
of vital statistics of the district in which the death, still 22967
birth, or fetal death occurred by the funeral director or other 22968
person in charge of the final disposition of the remains. The 22969
personal and statistical information in the death, still birth, or 22970
fetal death certificate shall be obtained from the best qualified 22971
persons or sources available by the funeral director or other 22972
person in charge of the final disposition of the remains. The 22973
statement of facts relating to the disposition of the body and 22974
information relative to the armed services referred to in section 22975
3705.19 of the Revised Code shall be signed by the funeral 22976
director or other person in charge of the final disposition of the 22977
remains. The funeral director or other person in charge of the 22978
final disposition of the remains shall then present the death 22979
certificate to the physician or coroner for certification of the 22980
cause of death. The medical certificate of death shall be 22981
completed and signed by the physician who attended the deceased or 22982
by the coroner within forty-eight hours after death. The coroner 22983
may satisfy the requirement of signing a death certificate showing 22984
the cause of death as pending either by stamping it with a stamp 22985
of the coroner's signature or by signing it in the coroner's own 22986
hand, but the coroner shall sign a death certificate or 22987
supplementary medical certification in the coroner's own hand. Any 22988
death certificate registered pursuant to this section shall 22989
contain the social security number of the decedent, if available. 22990
A social security number obtained under this section is a public 22991
record under section 149.43 of the Revised Code. 22992

Sec. 3705.17. The body of a person whose death occurs in this 22993
state shall not be interred, deposited in a vault or tomb, 22994

cremated, or otherwise disposed of by a funeral director until a 22995
burial permit is issued by a local registrar or sub-registrar of 22996
vital statistics. No such permit shall be issued by a local 22997
registrar or sub-registrar until a satisfactory death, still 22998
birth, fetal death, or provisional death certificate is filed with 22999
the local registrar or sub-registrar. When the medical 23000
certification as to the cause of death cannot be provided by the 23001
attending physician or coroner prior to burial, for sufficient 23002
cause, as determined by rule of the director of health, the 23003
funeral director may file a provisional death certificate with the 23004
local registrar or sub-registrar for the purpose of securing a 23005
burial or burial-transit permit. When the funeral director files a 23006
provisional death certificate to secure a burial or burial-transit 23007
permit, the funeral director shall file a satisfactory and 23008
complete death certificate within five days after the date of 23009
death. The director of health, by rule, may provide additional 23010
time for filing a satisfactory death certificate. A burial permit 23011
authorizing cremation shall not be issued upon the filing of a 23012
provisional certificate of death. 23013

When a funeral director or other person obtains a burial 23014
permit from a local registrar or sub-registrar, the registrar or 23015
sub-registrar shall charge a fee of three dollars for the issuance 23016
of the burial permit. Two dollars and fifty cents of each fee 23017
collected for a burial permit shall be paid into the state 23018
treasury to the credit of the division of real estate in the 23019
department of commerce to be used by the division in discharging 23020
its duties prescribed in Chapter 4767. of the Revised Code and the 23021
Ohio cemetery dispute resolution commission created by section 23022
4767.05 of the Revised Code. A local registrar or sub-registrar 23023
shall transmit payments of that portion of the amount of each fee 23024
collected under this section to the treasurer of state on a 23025
quarterly basis or more frequently, if possible. The director of 23026
health, by rule, shall provide for the issuance of a burial permit 23027

without the payment of the fee required by this section if the 23028
total cost of the burial will be paid by an agency or 23029
instrumentality of the United States, the state or a state agency, 23030
or a political subdivision of the state. 23031

The director of commerce may by rule adopted in accordance 23032
with Chapter 119. of the Revised Code reduce the total amount of 23033
the fee required by this section and that portion of the amount of 23034
the fee required to be paid to the credit of the division of real 23035
estate for the use of the division and the Ohio cemetery dispute 23036
resolution commission, if the director determines that the total 23037
amount of funds the fee is generating at the amount required by 23038
this section exceeds the amount of funds the division of real 23039
estate and the commission need to carry out their powers and 23040
duties prescribed in Chapter 4767. of the Revised Code. 23041

No person in charge of any premises in which interments or 23042
cremations are made shall inter or cremate or otherwise dispose of 23043
a body, unless it is accompanied by a burial permit. Each person 23044
in charge of a cemetery, crematory, or other place of disposal 23045
shall indorse upon a burial permit the date of interment, 23046
cremation, or other disposal and shall retain such permits for a 23047
period of at least five years. The person in charge shall keep an 23048
accurate record of all interments, cremations, or other disposal 23049
of dead bodies, made in the premises under the person's charge, 23050
stating the name of the deceased person, place of death, date of 23051
burial, cremation, or other disposal, and name and address of the 23052
funeral director. Such record shall at all times be open to public 23053
inspection. 23054

Sec. 3705.201. A still birth shall be registered on a still 23055
birth certificate. A still birth that occurs in Ohio shall not be 23056
interred, deposited in a vault or tomb, cremated, or otherwise 23057
disposed of by a funeral director or other person until a still 23058

birth certificate or provisional certificate has been filed with 23059
and a burial permit is issued by the local registrar of vital 23060
statistics of the registration district in which the still birth 23061
occurs, or the body is found. The department of health and the 23062
local registrar shall keep a separate record and index record of 23063
still birth certificates. 23064

The personal or statistical information on the still birth 23065
certificate shall be obtained by the funeral director or other 23066
person in charge of interment or cremation from the best qualified 23067
persons or sources available. 23068

Sec. 3705.22. Whenever it is alleged that the facts stated in 23069
any birth, still birth, fetal death, or death record filed in the 23070
department of health are not true, the director may require 23071
satisfactory evidence to be presented in the form of affidavits, 23072
amended records, or certificates to establish the alleged facts. 23073
When established, the original record or certificate shall be 23074
supplemented by the affidavit or the amended certificate or record 23075
information. 23076

An affidavit in a form prescribed by the director shall be 23077
sworn to by a person having personal knowledge of the matter 23078
sought to be corrected. Medical certifications contained on still 23079
birth, fetal death, or death records may be corrected only by the 23080
person whose name appears on the original record as attending 23081
physician or by the coroner of the county in which the death 23082
occurred. 23083

The amended birth record shall be signed by the person who 23084
attended the birth and the informant or informants whose names 23085
appear on the original record. The amended ~~death or~~ still birth, 23086
fetal death, or death record shall be signed by the physician or 23087
coroner, funeral director, and informant whose names appear on the 23088
original record. 23089

An affidavit or amended record for the correction of the given name of a person shall have the signature of the person, if the person is age eighteen or older, or of both parents if the person is under eighteen, except that in the case of a child born out of wedlock, the mother's signature will suffice; in the case of the death or incapacity of either parent, the signature of the other parent will suffice; in the case of a child not in the custody of ~~his~~ the child's parents, the signature of the guardian or agency having the custody of the child will suffice; and in the case of a child whose parents are deceased, the signature of another person who knows the child will suffice.

Once a correction or amendment of an item is made on a vital record, that item shall not be corrected or amended again except on the order of a court of this state or the request of a court of another state or jurisdiction.

The director may refuse to accept an affidavit or amended certificate or record that appears to be submitted for the purpose of falsifying the certificate or record.

A certified copy of a certificate or record issued by the department of health shall show the information as originally given and the corrected information, except that an electronically produced copy need indicate only that the certificate or record was corrected and the item that was corrected.

Sec. 3705.23. (A)(1) Except as otherwise provided in this section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section 3705.24 of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code.

The certified copy shall show the date the vital record was 23121
registered by the local registrar. 23122

(2) A certified copy of a vital record may be made by a 23123
mechanical, electronic, or other reproduction process. It shall be 23124
certified as a true copy by the director, state registrar, or 23125
local registrar who has custody of the record and shall include 23126
the date of issuance, the name of the issuing officer, the 23127
signature of the officer or an authorized facsimile of the 23128
signature, and the seal of the issuing office. 23129

(3) A certified copy of a vital record or of any part of a 23130
vital record, issued in accordance with this section, shall be 23131
considered for all purposes the same as the original and shall be 23132
prima-facie evidence of the facts stated in it in all courts and 23133
places. 23134

(4)(a) Information contained in the "information for medical 23135
and health use only" section of a birth record shall not be 23136
included as part of a certified copy of the birth record unless 23137
the information specifically is requested by the individual to 23138
whose birth the record attests, either of the individual's parents 23139
or the individual's guardian, a lineal descendant, or an official 23140
of the federal or state government or of a political subdivision 23141
of the state charged by law with detecting or prosecuting crime. 23142

(b) Except as provided in division (A)(4)(a) of this section, 23143
neither the office of vital statistics nor a local registrar shall 23144
disclose information contained in the "information for medical and 23145
health use only" section of a birth record unless a court, for 23146
good cause shown, orders disclosure of the information or the 23147
state registrar specifically authorizes release of the information 23148
for statistical or research purposes under conditions the state 23149
registrar, subject to the approval of the director of health, 23150
shall establish by rule. 23151

(B)(1) Unless the applicant specifically requests a certified copy, the director, the state registrar, or a local registrar, on receipt of a signed application for a birth record and the fee specified in section 3705.24 of the Revised Code, may issue a certification of birth, and the certification of birth shall contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and shall attest that the person's birth has been registered. A certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(2) The director or the state registrar, on the receipt of a signed application for an heirloom certification of birth and the fee specified in section 3705.24 of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

~~(D) Except as provided in division (A)(4)(b) of this section, the state registrar and a local registrar, on request, shall provide uncertified copies of vital records in accordance with section 149.43 of the Revised Code.~~

~~Sec. 3705.24. (A) Except as otherwise provided in this 23183
division or division (C) of this section, the fee for a certified 23184
copy of a vital record or for a certification of birth shall be 23185
seven dollars plus any fee required by section 3109.14 of the 23186
Revised Code. Except as provided in section 3705.241 of the 23187
Revised Code, the fee for a certified copy of a vital record or 23188
for a certification of birth issued by the office of vital 23189
statistics shall be an amount prescribed by the public health 23190
council plus any fee required by section 3109.14 of the Revised 23191
Code. The fee for a certified copy of a vital record or for a 23192
certification of birth issued by a health district shall be an 23193
amount prescribed in accordance with section 3709.09 of the 23194
Revised Code plus any fee required by section 3109.14 of the 23195
Revised Code. No certified copy of a vital record or certification 23196
of birth shall be issued without payment of the fee unless 23197
otherwise specified by statute. 23198~~

~~For a special search of the files and records to determine a 23199
date or place contained in a record on file, the office of vital 23200
statistics shall charge a fee of three dollars for each hour or 23201
fractional part of an hour required for the search. 23202~~

~~(B)(1) The public health council shall, in accordance with 23203
section 111.15 of the Revised Code, adopt rules prescribing fees 23204
for the following services provided by the state office of vital 23205
statistics: 23206~~

~~(a) Except as provided in division (A)(4) of this section: 23207~~

~~(i) A certified copy of a vital record or a certification of 23208
birth; 23209~~

~~(ii) A search by the office of vital statistics of its files 23210
and records pursuant to a request for information, regardless of 23211
whether a copy of a record is provided; 23212~~

<u>(iii) A copy of a record provided pursuant to a request;</u>	23213
<u>(b) Replacement of a birth certificate following an adoption,</u>	23214
<u>legitimation, paternity determination or acknowledgement, or court</u>	23215
<u>order;</u>	23216
<u>(c) Filing of a delayed registration of a vital record;</u>	23217
<u>(d) Amendment of a vital record that is requested later than</u>	23218
<u>one year after the filing date of the vital record;</u>	23219
<u>(e) Any other documents or services for which the public</u>	23220
<u>health council considers the charging of a fee appropriate.</u>	23221
<u>(2) Fees prescribed under division (A)(1)(a) of this section</u>	23222
<u>shall not be less than seven dollars.</u>	23223
<u>(3) Fees prescribed under division (A)(1) of this section</u>	23224
<u>shall be collected in addition to any fee required by section</u>	23225
<u>3109.14 of the Revised Code.</u>	23226
<u>(4) Fees prescribed under division (A) of this section shall</u>	23227
<u>not apply to certifications issued under division (H) of this</u>	23228
<u>section or copies provided under section 3705.241 of the Revised</u>	23229
<u>Code.</u>	23230
<u>(B) In addition to the fees prescribed under division (A) of</u>	23231
<u>this section or section 3709.09 of the Revised Code, the office of</u>	23232
<u>vital statistics or the board of health of a city or general</u>	23233
<u>health district shall charge a five-dollar fee for each certified</u>	23234
<u>copy of a vital record and each certification of birth. This fee</u>	23235
<u>shall be deposited in the general operations fund created under</u>	23236
<u>section 3701.83 of the Revised Code and be used solely toward the</u>	23237
<u>modernization and automation of the system of vital records in</u>	23238
<u>this state. A board of health shall forward all fees collected</u>	23239
<u>under this division to the department of health not later than</u>	23240
<u>thirty days after the end of each calendar quarter.</u>	23241
<u>(C) Except as otherwise provided in division (G)(H) of this</u>	23242

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:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

~~(C)~~(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, still birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, still birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;	23275 23276
(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;	23277 23278 23279
(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;	23280 23281
(4) In primary registration districts of less than fifty thousand, one dollar.	23282 23283
(D) <u>(E)</u> The director of health shall annually certify to the county treasurers of the several counties the number of birth, <u>still birth</u> , fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.	23284 23285 23286 23287 23288 23289 23290 23291 23292 23293
(E) <u>(F)</u> A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.	23294 23295 23296 23297 23298 23299
(F) <u>(G)</u> The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in	23300 23301 23302 23303 23304 23305

these cases. 23306

~~(G)~~(H) The fee for an heirloom certification of birth issued 23307
pursuant to division (B)(2) of section 3705.23 of the Revised Code 23308
shall be an amount prescribed by rule by the director of health 23309
plus any fee required by section 3109.14 of the Revised Code. In 23310
setting the amount of the fee, the director shall establish a 23311
surcharge in addition to an amount necessary to offset the expense 23312
of processing heirloom certifications of birth. The fee prescribed 23313
by the director of health pursuant to this division shall be 23314
deposited into the state treasury to the credit of the heirloom 23315
certification of birth fund which is hereby created. Money 23316
credited to the fund shall be used by the office of vital 23317
statistics to offset the expense of processing heirloom 23318
certifications of birth. However, the money collected for the 23319
surcharge, subject to the approval of the controlling board, shall 23320
be used for the purposes specified by the family and children 23321
first council pursuant to section 121.37 of the Revised Code. 23322

Sec. 3705.26. Any person having knowledge of the facts shall 23323
furnish such information as ~~he~~ the person may possess regarding 23324
any birth, still birth, fetal death, or death upon demand of the 23325
state registrar. 23326

Sec. 3705.28. This chapter applies to all birth, still birth, 23327
fetal death, or death certificates and records, and reports of 23328
marriage, divorce, dissolution of marriage, or annulment of 23329
marriage received by the department of health prior to the 23330
effective date of this section and in the custody of the state 23331
registrar or a local registrar, but nothing in this chapter 23332
affects the validity of any certificate, record, or report created 23333
or filed prior to the effective date of this section. 23334

Sec. 3709.09. (A) The board of health of a city or general 23335

health district may, by rule, establish a uniform system of fees 23336
to pay the costs of any services provided by the board. Fees 23337

The fee for issuance of a certified copy of a vital record or 23338
a certification of birth shall not be less than the fee prescribed 23339
for the same service under division (A)(1) of section 3705.24 of 23340
the Revised Code and shall include the fees required by division 23341
(B) of section 3705.24 and section 3109.14 of the Revised Code. 23342

Fees for services provided by the board for purposes 23343
specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 23344
3733.25, and 3749.04 of the Revised Code shall be established in 23345
accordance with rules adopted under division (B) of this section. 23346
The district advisory council, in the case of a general health 23347
district, and the legislative authority of the city, in the case 23348
of a city health district, may disapprove any fee established by 23349
the board of health under this division, and any such fee, as 23350
disapproved, shall not be charged by the board of health. 23351

(B) The public health council shall adopt rules under section 23352
111.15 of the Revised Code that establish fee categories and 23353
uniform methodologies for use in calculating the costs of services 23354
provided for purposes specified in sections 3701.344, 3711.05, 23355
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In 23356
adopting the rules, the public health council shall consider 23357
recommendations it receives from advisory boards established 23358
either by statute or the director of health for entities subject 23359
to the fees. 23360

(C) At least thirty days prior to establishing a fee for a 23361
service provided by the board for a purpose specified in section 23362
3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the 23363
Revised Code, a board of health shall notify any entity that would 23364
be affected by the proposed fee of the amount of the proposed fee. 23365

Sec. 3710.05. (A) Except as otherwise provided in this 23366

chapter, no person shall engage in any asbestos hazard abatement 23367
activities in this state unless licensed or certified pursuant to 23368
this chapter. 23369

(B) To apply for licensure as an asbestos abatement 23370
contractor or certification as an asbestos hazard abatement 23371
specialist, an asbestos hazard evaluation specialist, an asbestos 23372
hazard abatement project designer, or an asbestos hazard abatement 23373
air-monitoring technician, a person shall do all of the following: 23374

(1) Submit a completed application to the department of 23375
health, on a form provided by the department; 23376

(2) Pay the requisite fee as provided in division (D) of this 23377
section; 23378

(3) Submit any other information the public health council by 23379
rule requires. 23380

(C) The application form for a business entity or public 23381
entity applying for an asbestos hazard abatement contractor's 23382
license shall include all of the following: 23383

(1) A description of the protective clothing and respirators 23384
that the public entity will use to comply with rules adopted by 23385
the public health council and that the business entity will use to 23386
comply with requirements of the United States occupational safety 23387
and health administration; 23388

(2) A description of procedures the business entity or public 23389
entity will use for the selection, utilization, handling, removal, 23390
and disposal of clothing to prevent contamination or 23391
recontamination of the environment and to protect the public 23392
health from the hazards associated with exposure to asbestos; 23393

(3) The name and address of each asbestos disposal site that 23394
the business entity or public entity might use during the year; 23395

(4) A description of the site decontamination procedures that 23396

the business entity or public entity will use;	23397
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	23398
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	23400
(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;	23402
(8) A description of the final clean-up procedures that the business entity or public entity will use;	23406
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	23408
(10) The federal tax identification number of the business entity or the public entity.	23410
(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:	23412
(1) Five <u>Seven</u> hundred fifty dollars for asbestos hazard abatement contractors;	23417
(2) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement project designers;	23419
(3) Twenty-five <u>Fifty</u> dollars for asbestos hazard abatement workers;	23421
(4) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement specialists;	23423
(5) One <u>Two</u> hundred twenty-five dollars for asbestos hazard	23425

evaluation specialists; and 23426

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal 23427
of asbestos hazard training providers. 23428

(E) Notwithstanding division (A) of this section, no business 23429
entity which engages in asbestos hazard abatement activities 23430
solely at its own place of business is required to be licensed as 23431
an asbestos hazard abatement contractor provided that the business 23432
entity is required to and does comply with all applicable 23433
standards of the United States environmental protection agency and 23434
the United States occupational safety and health administration 23435
and provided further that all persons employed by the business 23436
entity on the activity meet the requirements of this chapter. 23437

Sec. 3711.021. For the purposes of this chapter, a maternity 23438
hospital or lying-in hospital includes a limited maternity unit, 23439
which is a unit in a hospital that contains no other maternity 23440
unit, in which care is provided during all or part of the 23441
maternity cycle and newborns receive care in a private room 23442
serving all antepartum, labor, delivery, recovery, postpartum, and 23443
nursery needs. 23444

The director of health may charge a maternity hospital or 23445
lying-in hospital seeking an initial or renewal license under this 23446
chapter a fee not exceeding the following: 23447

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars 23448
for a hospital in which not less than two thousand births occurred 23449
the previous calendar year; 23450

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 23451
for a hospital in which not more than one thousand nine hundred 23452
ninety-nine and not less than one thousand births occurred the 23453
previous calendar year; 23454

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 23455

for a hospital in which not more than nine hundred ninety-nine and 23456
not less than six hundred fifty births occurred the previous 23457
calendar year; 23458

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 23459
for a hospital in which not more than six hundred forty-nine and 23460
not less than four hundred fifty births occurred the previous 23461
calendar year; 23462

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 23463
for a hospital in which not more than four hundred forty-nine 23464
births and not less than one hundred births occurred the previous 23465
calendar year; 23466

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 23467
for a hospital in which not more than ninety-nine births occurred 23468
the previous calendar year. 23469

The director shall deposit all fees collected under this 23470
section into the general operations fund created under section 23471
3701.83 of the Revised Code. Money generated by the fees shall be 23472
used only for administration and enforcement of this chapter and 23473
rules adopted under it. 23474

Sec. 3717.42. (A) The following are not food service 23475
operations: 23476

(1) A retail food establishment licensed under this chapter, 23477
including a retail food establishment that provides the services 23478
of a food service operation pursuant to an endorsement issued 23479
under section 3717.24 of the Revised Code; 23480

(2) An entity exempt from the requirement to be licensed as a 23481
retail food establishment under division (B) of section 3717.22 of 23482
the Revised Code; 23483

(3) A business or that portion of a business that is 23484
regulated by the federal government or the department of 23485

agriculture as a food manufacturing or food processing business, 23486
including a business or that portion of a business regulated by 23487
the department of agriculture under Chapter 911., 913., 915., 23488
917., 918., or 925. of the Revised Code. 23489

(B) All of the following are exempt from the requirement to 23490
be licensed as a food service operation: 23491

(1) A private home in which individuals related by blood, 23492
marriage, or law reside and in which the food that is prepared or 23493
served is intended only for those individuals and their nonpaying 23494
guests; 23495

(2) A private home operated as a bed-and-breakfast that 23496
prepares and offers food to guests, if the home is owner-occupied, 23497
the number of available guest bedrooms does not exceed six, 23498
breakfast is the only meal offered, and the number of guests 23499
served does not exceed sixteen; 23500

(3) A stand operated on the premises of a private home by one 23501
or more children under the age of twelve, if the food served is 23502
not potentially hazardous; 23503

(4) A residential facility that accommodates not more than 23504
sixteen residents; is licensed, certified, registered, or 23505
otherwise regulated by the federal government or by the state or a 23506
political subdivision of the state; and prepares food for or 23507
serves food to only the residents of the facility, the staff of 23508
the facility, and any nonpaying guests of residents or staff; 23509

(5) A church, school, fraternal or veterans' organization, 23510
volunteer fire organization, or volunteer emergency medical 23511
service organization preparing or serving food intended for 23512
individual portion service on its premises for not more than seven 23513
consecutive days or not more than fifty-two separate days during a 23514
licensing period. This exemption extends to any individual or 23515
group raising all of its funds during the time periods specified 23516

in division (B)(5) of this section for the benefit of the church, 23517
school, or organization by preparing or serving food intended for 23518
individual portion service under the same conditions. 23519

(6) A common carrier that prepares or serves food, if the 23520
carrier is regulated by the federal government; 23521

(7) A food service operation serving ~~five~~ thirteen or fewer 23522
individuals daily; 23523

(8) A type A or type B family day-care home, as defined in 23524
section 5104.01 of the Revised Code, that prepares or serves food 23525
for the children receiving day-care; 23526

(9) A vending machine location where the only foods dispensed 23527
are foods from one or both of the following categories: 23528

(a) Prepackaged foods that are not potentially hazardous; 23529

(b) Nuts, panned or wrapped bulk chewing gum, or panned or 23530
wrapped bulk candies. 23531

(10) A place servicing the vending machines at a vending 23532
machine location described in division (B)(9) of this section; 23533

(11) A commissary servicing vending machines that dispense 23534
only milk, milk products, or frozen desserts that are under a 23535
state or federal inspection and analysis program; 23536

(12) A "controlled location vending machine location," which 23537
means a vending machine location at which all of the following 23538
apply: 23539

(a) The vending machines dispense only foods that are not 23540
potentially hazardous; 23541

(b) The machines are designed to be filled and maintained in 23542
a sanitary manner by untrained persons; 23543

(c) Minimal protection is necessary to ensure against 23544
contamination of food and equipment. 23545

(13) A private home that prepares and offers food to guests, 23546
if the home is owner-occupied, meals are served on the premises of 23547
that home, the number of meals served does not exceed one hundred 23548
fifteen per week, and the home displays a notice in a place 23549
conspicuous to all of its guests informing them that the home is 23550
not required to be licensed as a food service operation; 23551

(14) An individual who prepares full meals or meal 23552
components, such as pies or baked goods, in the individual's home 23553
to be served off the premises of that home, if the number of meals 23554
or meal components prepared for that purpose does not exceed 23555
twenty in a seven-day period. 23556

Sec. 3721.02. (A) The director of health shall license homes 23557
and establish procedures to be followed in inspecting and 23558
licensing homes. The director may inspect a home at any time. Each 23559
home shall be inspected by the director at least once prior to the 23560
issuance of a license and at least once every fifteen months 23561
thereafter. The state fire marshal or a township, municipal, or 23562
other legally constituted fire department approved by the marshal 23563
shall also inspect a home prior to issuance of a license, at least 23564
once every fifteen months thereafter, and at any other time 23565
requested by the director. A home does not have to be inspected 23566
prior to issuance of a license by the director, state fire 23567
marshal, or a fire department if ownership of the home is assigned 23568
or transferred to a different person and the home was licensed 23569
under this chapter immediately prior to the assignment or 23570
transfer. The director may enter at any time, for the purposes of 23571
investigation, any institution, residence, facility, or other 23572
structure that has been reported to the director or that the 23573
director has reasonable cause to believe is operating as a nursing 23574
home, residential care facility, or home for the aging without a 23575
valid license required by section 3721.05 of the Revised Code or, 23576

in the case of a county home or district home, is operating 23577
despite the revocation of its residential care facility license. 23578
The director may delegate the director's authority and duties 23579
under this chapter to any division, bureau, agency, or official of 23580
the department of health. 23581

(B) A single facility may be licensed both as a nursing home 23582
pursuant to this chapter and as an adult care facility pursuant to 23583
Chapter 3722. of the Revised Code if the director determines that 23584
the part or unit to be licensed as a nursing home can be 23585
maintained separate and discrete from the part or unit to be 23586
licensed as an adult care facility. 23587

(C) In determining the number of residents in a home for the 23588
purpose of licensing, the director shall consider all the 23589
individuals for whom the home provides accommodations as one group 23590
unless one of the following is the case: 23591

(1) The home is a home for the aging, in which case all the 23592
individuals in the part or unit licensed as a nursing home shall 23593
be considered as one group, and all the individuals in the part or 23594
unit licensed as a rest home shall be considered as another group. 23595

(2) The home is both a nursing home and an adult care 23596
facility. In that case, all the individuals in the part or unit 23597
licensed as a nursing home shall be considered as one group, and 23598
all the individuals in the part or unit licensed as an adult care 23599
facility shall be considered as another group. 23600

(3) The home maintains, in addition to a nursing home or 23601
residential care facility, a separate and discrete part or unit 23602
that provides accommodations to individuals who do not require or 23603
receive skilled nursing care and do not receive personal care 23604
services from the home, in which case the individuals in the 23605
separate and discrete part or unit shall not be considered in 23606
determining the number of residents in the home if the separate 23607

and discrete part or unit is in compliance with the Ohio basic 23608
building code established by the board of building standards under 23609
Chapters 3781. and 3791. of the Revised Code and the home permits 23610
the director, on request, to inspect the separate and discrete 23611
part or unit and speak with the individuals residing there, if 23612
they consent, to determine whether the separate and discrete part 23613
or unit meets the requirements of this division. 23614

(D) The director of health shall charge an application fee 23615
and an annual renewal licensing and inspection fee of one hundred 23616
five dollars for each fifty persons or part thereof of a home's 23617
licensed capacity. All fees collected by the director for the 23618
issuance or renewal of licenses shall be deposited into the state 23619
treasury to the credit of the general operations fund created in 23620
section 3701.83 of the Revised Code for use only in administering 23621
and enforcing this chapter and rules adopted under it. 23622

(E)(1) Except as otherwise provided in this section, the 23623
results of an inspection or investigation of a home that is 23624
conducted under this section, including any statement of 23625
deficiencies and all findings and deficiencies cited in the 23626
statement on the basis of the inspection or investigation, shall 23627
be used solely to determine the home's compliance with this 23628
chapter or another chapter of the Revised Code in any action or 23629
proceeding other than an action commenced under division (I) of 23630
section 3721.17 of the Revised Code. Those results of an 23631
inspection or investigation, that statement of deficiencies, and 23632
the findings and deficiencies cited in that statement shall not be 23633
used in any court or in any action or proceeding that is pending 23634
in any court and are not admissible in evidence in any action or 23635
proceeding unless that action or proceeding is an appeal of an 23636
action by the department of health under this chapter or is an 23637
action by any department or agency of the state to enforce this 23638
chapter or another chapter of the Revised Code. 23639

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the medical assistance program unless it has complied with section 5111.66 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job~~

~~and family services and~~ residents of the home and their sponsors 23670
of such action. This requirement shall not apply in cases where 23671
the department of job and family services terminates a home's 23672
provider agreement or provider status. 23673

(B) A home licensed under this chapter as a residential care 23674
facility shall provide notice to each prospective resident or the 23675
individual's sponsor of the services offered by the facility and 23676
the types of skilled nursing care that the facility may provide. A 23677
residential care facility that, pursuant to section 3721.012 of 23678
the Revised Code, has a policy of entering into risk agreements 23679
with residents or their sponsors shall provide each prospective 23680
resident or the individual's sponsor a written explanation of the 23681
policy and the provisions that may be contained in a risk 23682
agreement. At the time the information is provided, the facility 23683
shall obtain a statement signed by the individual receiving the 23684
information acknowledging that the individual received the 23685
information. The facility shall maintain on file the individual's 23686
signed statement. 23687

(C) A resident has a cause of action against a home for 23688
breach of any duty imposed by this section. The action may be 23689
commenced by the resident, or on the resident's behalf by the 23690
resident's sponsor or a residents' rights advocate, by the filing 23691
of a civil action in the court of common pleas of the county in 23692
which the home is located, or in the court of common pleas of 23693
Franklin county. 23694

If the court finds that a breach of any duty imposed by this 23695
section has occurred, the court shall enjoin the home from 23696
discharging the resident from the home until arrangements 23697
satisfactory to the court are made for the orderly transfer of the 23698
resident to another mode of health care including, but not limited 23699
to, another home, and may award the resident and a person or 23700
public agency that brings an action on behalf of a resident 23701

reasonable attorney's fees. If a home discharges a resident to 23702
whom or to whose sponsor information concerning its status 23703
relative to the medical assistance program was not provided as 23704
required under this section, the court shall grant any appropriate 23705
relief including, but not limited to, actual damages, reasonable 23706
attorney's fees, and costs. 23707

Sec. 3727.17. Each hospital shall provide a staff person to 23708
do all of the following: 23709

(A) Meet with each unmarried mother who gave birth in or en 23710
route to the hospital within twenty-four hours after the birth or 23711
before the mother is released from the hospital; 23712

(B) Attempt to meet with the father of the unmarried mother's 23713
child if possible; 23714

(C) Explain to the unmarried mother and the father, if the 23715
father is present, the benefit to the child of establishing a 23716
parent and child relationship between the father and the child and 23717
the various proper procedures for establishing a parent and child 23718
relationship; 23719

(D) Present to the unmarried mother and, if possible, the 23720
father, the pamphlet or statement regarding the rights and 23721
responsibilities of a natural parent prepared by the department of 23722
job and family services pursuant to section 3111.32 of the Revised 23723
Code; 23724

(E) Provide the unmarried mother, and if possible the father, 23725
all forms and statements necessary to voluntarily establish a 23726
parent and child relationship, including the acknowledgment of 23727
paternity form prepared by the department of job and family 23728
services pursuant to section 3111.31 of the Revised Code; 23729

(F) Explain to the mother and father the availability of 23730
immediate genetic testing at the hospital to establish the parent 23731

and child relationship and that the test is at no cost to the 23732
mother or father; 23733

(G) Upon both the mother's and father's request, help the 23734
mother and father complete any specific form or statement 23735
necessary to establish a parent and child relationship; 23736

~~(G)~~(H) Present to an unmarried mother who is not a recipient 23737
of medicaid or a participant in Ohio works first an application 23738
for Title IV-D services; 23739

~~(H)~~(I) Mail the voluntary acknowledgment of paternity, no 23740
later than ten days after it is completed, to the office of child 23741
support in the department of job and family services. 23742

Each hospital shall provide a notary public to notarize an 23743
acknowledgment of paternity signed by the mother and father. If a 23744
hospital knows or determines that a man is presumed under section 23745
3111.03 of the Revised Code to be the father of the child 23746
described in this section and that the presumed father is not the 23747
man who signed or is attempting to sign an acknowledgment with 23748
respect to the child, the hospital shall take no further action 23749
with regard to the acknowledgment and shall not mail the 23750
acknowledgment pursuant to this section. 23751

A hospital may contract with a person or government entity to 23752
fulfill its responsibilities under this section and sections 23753
3111.71 to 3111.74 of the Revised Code. Services provided by a 23754
hospital under this section or pursuant to a contract under 23755
sections 3111.71 and 3111.77 of the Revised Code do not constitute 23756
the practice of law. A hospital shall not be subject to criminal 23757
or civil liability for any damage or injury alleged to result from 23758
services provided pursuant to this section or sections 3111.71 to 23759
3111.74 of the Revised Code unless the hospital acted with 23760
malicious purpose, in bad faith, or in a wanton or reckless 23761
manner. 23762

Sec. 3733.43. (A) Except as otherwise provided in this 23763
division, prior to the fifteenth day of April in each year, every 23764
person who intends to operate an agricultural labor camp shall 23765
make application to the licensor for a license to operate such 23766
camp, effective for the calendar year in which it is issued. The 23767
licensor may accept an application on or after the fifteenth day 23768
of April. The license fees specified in this division shall be 23769
submitted to the licensor with the application for a license. No 23770
agricultural labor camp shall be operated in this state without a 23771
license. Any person operating an agricultural labor camp without a 23772
current and valid agricultural labor camp license is not excepted 23773
from compliance with sections 3733.41 to 3733.49 of the Revised 23774
Code by holding a valid and current hotel license. Each person 23775
proposing to open an agricultural labor camp shall submit with the 23776
application for a license any plans required by any rule adopted 23777
under section 3733.42 of the Revised Code. The annual license fee 23778
is ~~twenty~~ seventy-five dollars, unless the application for a 23779
license is made on or after the fifteenth day of April, in which 23780
case the annual license fee is ~~forty~~ one hundred dollars. An 23781
additional fee of ~~three~~ ten dollars per housing unit per year 23782
shall be assessed to defray the costs of enforcing sections 23783
3733.41 to 3733.49 of the Revised Code, unless the application for 23784
a license is made on or after the fifteenth day of April, in which 23785
case an additional fee of ~~six~~ fifteen dollars per housing unit 23786
shall be assessed. All fees collected under this division shall be 23787
deposited in the state treasury to the credit of the general 23788
operations fund created in section 3701.83 of the Revised Code and 23789
shall be used for the administration and enforcement of sections 23790
3733.41 to 3733.49 of the Revised Code and rules adopted 23791
thereunder. 23792

(B) Any license under this section may be denied, suspended, 23793
or revoked by the licensor for violation of sections 3733.41 to 23794

3733.49 of the Revised Code or the rules adopted thereunder. 23795
Unless there is an immediate serious public health hazard, no 23796
denial, suspension, or revocation of a license shall be made 23797
effective until the person operating the agricultural labor camp 23798
has been given notice in writing of the specific violations and a 23799
reasonable time to make corrections. When the licensor determines 23800
that an immediate serious public health hazard exists, ~~he~~ the 23801
licensor shall issue an order denying or suspending the license 23802
without a prior hearing. 23803

(C) All proceedings under this section are subject to Chapter 23804
119. of the Revised Code except as provided in section 3733.431 of 23805
the Revised Code. 23806

(D) Every occupant of an agricultural labor camp shall keep 23807
that part of the dwelling unit, and premises thereof, that ~~he~~ the 23808
occupant occupies and controls in a clean and sanitary condition. 23809

Sec. 3733.45. (A) The licensor shall inspect all agricultural 23810
labor camps and shall require compliance with sections 3733.41 to 23811
3733.49 of the Revised Code and the rules adopted thereunder prior 23812
to the issuance of a license. Upon receipt of a complaint from the 23813
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 23814
licensor's own information that an agricultural labor camp is 23815
operating without a license, the licensor shall inspect the camp. 23816
If the camp is operating without a license, the licensor shall 23817
require the camp to comply with sections 3733.41 to 3733.49 of the 23818
Revised Code and the rules adopted under those sections. No 23819
license shall be issued unless results of water supply tests 23820
indicate that the water supply meets required standards or if any 23821
violations exist concerning sanitation, drainage, or habitability 23822
of housing units. 23823

(B) The licensor shall, upon issuance of each license, 23824
distribute posters containing the toll-free telephone number of 23825

the migrant agricultural ~~ombudsman~~ ombudsperson established in 23826
section 3733.49 of the Revised Code and information in English and 23827
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 23828
office, as provided in that section. The licensor shall provide at 23829
least two posters to the licensee, one for ~~his~~ the licensee's 23830
personal use and at least one that shall be posted in a 23831
conspicuous place within the camp. 23832

(C) The licensor may, upon proper identification to the 23833
operator or ~~his~~ the operator's agent, enter on any property or 23834
into any structure at any reasonable time for the purpose of 23835
making inspections required by this section. 23836

The licensor shall make at least one inspection prior to 23837
licensing, ~~and at least two inspections during occupancy of the~~ 23838
~~camp, at least one of which shall be an unannounced evening~~ 23839
~~inspection conducted after five p.m. The licensor shall determine~~ 23840
~~and record housing unit occupancy during each evening inspection.~~ 23841
The licensor shall make such other inspections as ~~he~~ the licensor 23842
considers necessary to enforce sections 3733.41 to 3733.49 of the 23843
Revised Code adequately. 23844

(D) Any plans submitted to the licensor shall be in 23845
compliance with rules adopted pursuant to section 3733.42 of the 23846
Revised Code and shall be approved or disapproved within thirty 23847
days after they are filed. 23848

~~(E) All designees of the licensor who conduct inspections in~~ 23849
~~the evening in accordance with this section shall speak both~~ 23850
~~English and Spanish fluently. At least one member of the permanent~~ 23851
~~staff assigned to conduct inspections in accordance with this~~ 23852
~~section shall speak both English and Spanish fluently.~~ 23853

~~(F)~~ The licensor shall issue an annual report that shall 23854
accurately reflect the results of that year's inspections, 23855
including, but not limited to, numbers of ~~pre and post occupancy~~ 23856

inspections, number of violations found, and action taken in 23857
regard to violations. The report shall also include an assessment 23858
of any problems found in that year and proposed solutions for 23859
them. 23860

Sec. 3734.02. (A) The director of environmental protection, 23861
in accordance with Chapter 119. of the Revised Code, shall adopt 23862
and may amend, suspend, or rescind rules having uniform 23863
application throughout the state governing solid waste facilities 23864
and the inspections of and issuance of permits and licenses for 23865
all solid waste facilities in order to ensure that the facilities 23866
will be located, maintained, and operated, and will undergo 23867
closure and post-closure care, in a sanitary manner so as not to 23868
create a nuisance, cause or contribute to water pollution, create 23869
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 23870
257.3-8, as amended. The rules may include, without limitation, 23871
financial assurance requirements for closure and post-closure care 23872
and corrective action and requirements for taking corrective 23873
action in the event of the surface or subsurface discharge or 23874
migration of explosive gases or leachate from a solid waste 23875
facility, or of ground water contamination resulting from the 23876
transfer or disposal of solid wastes at a facility, beyond the 23877
boundaries of any area within a facility that is operating or is 23878
undergoing closure or post-closure care where solid wastes were 23879
disposed of or are being disposed of. The rules shall not concern 23880
or relate to personnel policies, salaries, wages, fringe benefits, 23881
or other conditions of employment of employees of persons owning 23882
or operating solid waste facilities. The director, in accordance 23883
with Chapter 119. of the Revised Code, shall adopt and may amend, 23884
suspend, or rescind rules governing the issuance, modification, 23885
revocation, suspension, or denial of variances from the director's 23886
solid waste rules, including, without limitation, rules adopted 23887
under this chapter governing the management of scrap tires. 23888

Variances shall be issued, modified, revoked, suspended, or 23889
rescinded in accordance with this division, rules adopted under 23890
it, and Chapter 3745. of the Revised Code. The director may order 23891
the person to whom a variance is issued to take such action within 23892
such time as the director may determine to be appropriate and 23893
reasonable to prevent the creation of a nuisance or a hazard to 23894
the public health or safety or the environment. Applications for 23895
variances shall contain such detail plans, specifications, and 23896
information regarding objectives, procedures, controls, and other 23897
pertinent data as the director may require. The director shall 23898
grant a variance only if the applicant demonstrates to the 23899
director's satisfaction that construction and operation of the 23900
solid waste facility in the manner allowed by the variance and any 23901
terms or conditions imposed as part of the variance will not 23902
create a nuisance or a hazard to the public health or safety or 23903
the environment. In granting any variance, the director shall 23904
state the specific provision or provisions whose terms are to be 23905
varied and also shall state specific terms or conditions imposed 23906
upon the applicant in place of the provision or provisions. The 23907
director may hold a public hearing on an application for a 23908
variance or renewal of a variance at a location in the county 23909
where the operations that are the subject of the application for 23910
the variance are conducted. The director shall give not less than 23911
twenty days' notice of the hearing to the applicant by certified 23912
mail and shall publish at least one notice of the hearing in a 23913
newspaper with general circulation in the county where the hearing 23914
is to be held. The director shall make available for public 23915
inspection at the principal office of the environmental protection 23916
agency a current list of pending applications for variances and a 23917
current schedule of pending variance hearings. The director shall 23918
make a complete stenographic record of testimony and other 23919
evidence submitted at the hearing. Within ten days after the 23920
hearing, the director shall make a written determination to issue, 23921

renew, or deny the variance and shall enter the determination and 23922
the basis for it into the record of the hearing. The director 23923
shall issue, renew, or deny an application for a variance or 23924
renewal of a variance within six months of the date upon which the 23925
director receives a complete application with all pertinent 23926
information and data required. No variance shall be issued, 23927
revoked, modified, or denied until the director has considered the 23928
relative interests of the applicant, other persons and property 23929
affected by the variance, and the general public. Any variance 23930
granted under this division shall be for a period specified by the 23931
director and may be renewed from time to time on such terms and 23932
for such periods as the director determines to be appropriate. No 23933
application shall be denied and no variance shall be revoked or 23934
modified without a written order stating the findings upon which 23935
the denial, revocation, or modification is based. A copy of the 23936
order shall be sent to the applicant or variance holder by 23937
certified mail. 23938

(B) The director shall prescribe and furnish the forms 23939
necessary to administer and enforce this chapter. The director may 23940
cooperate with and enter into agreements with other state, local, 23941
or federal agencies to carry out the purposes of this chapter. The 23942
director may exercise all incidental powers necessary to carry out 23943
the purposes of this chapter. 23944

The director may use moneys in the infectious waste 23945
management fund created in section 3734.021 of the Revised Code 23946
exclusively for administering and enforcing the provisions of this 23947
chapter governing the management of infectious wastes. Of each 23948
registration and renewal fee collected under rules adopted under 23949
division (A)(2)(a) of section 3734.021 or under section 3734.022 23950
of the Revised Code, the director, within forty-five days of its 23951
receipt, shall remit from the fund one-half of the fee received to 23952
the board of health of the health district in which the registered 23953

premises is located, or, in the instance of an infectious wastes 23954
transporter, to the board of health of the health district in 23955
which the transporter's principal place of business is located. 23956
However, if the board of health having jurisdiction over a 23957
registrant's premises or principal place of business is not on the 23958
approved list under section 3734.08 of the Revised Code, the 23959
director shall not make that payment to the board of health. 23960

(C) Except as provided in this division and divisions (N)(2) 23961
and (3) of this section, no person shall establish a new solid 23962
waste facility or infectious waste treatment facility, or modify 23963
an existing solid waste facility or infectious waste treatment 23964
facility, without submitting an application for a permit with 23965
accompanying detail plans, specifications, and information 23966
regarding the facility and method of operation and receiving a 23967
permit issued by the director, except that no permit shall be 23968
required under this division to install or operate a solid waste 23969
facility for sewage sludge treatment or disposal when the 23970
treatment or disposal is authorized by a current permit issued 23971
under Chapter 3704. or 6111. of the Revised Code. 23972

No person shall continue to operate a solid waste facility 23973
for which the director has denied a permit for which an 23974
application was required under division (A)(3) of section 3734.05 23975
of the Revised Code, or for which the director has disapproved 23976
plans and specifications required to be filed by an order issued 23977
under division (A)(5) of that section, after the date prescribed 23978
for commencement of closure of the facility in the order issued 23979
under division (A)(6) of section 3734.05 of the Revised Code 23980
denying the permit application or approval. 23981

On and after the effective date of the rules adopted under 23982
division (A) of this section and division (D) of section 3734.12 23983
of the Revised Code governing solid waste transfer facilities, no 23984
person shall establish a new, or modify an existing, solid waste 23985

transfer facility without first submitting an application for a 23986
permit with accompanying engineering detail plans, specifications, 23987
and information regarding the facility and its method of operation 23988
to the director and receiving a permit issued by the director. 23989

No person shall establish a new compost facility or continue 23990
to operate an existing compost facility that accepts exclusively 23991
source separated yard wastes without submitting a completed 23992
registration for the facility to the director in accordance with 23993
rules adopted under divisions (A) and (N)(3) of this section. 23994

This division does not apply to an infectious waste treatment 23995
facility that meets any of the following conditions: 23996

(1) Is owned or operated by the generator of the wastes and 23997
exclusively treats, by methods, techniques, and practices 23998
established by rules adopted under division (C)(1) or (3) of 23999
section 3734.021 of the Revised Code, wastes that are generated at 24000
any premises owned or operated by that generator regardless of 24001
whether the wastes are generated on the premises where the 24002
generator's treatment facility is located or, if the generator is 24003
a hospital as defined in section 3727.01 of the Revised Code, 24004
infectious wastes that are described in division (A)(1)(g), (h), 24005
or (i) of section 3734.021 of the Revised Code; 24006

(2) Holds a license or renewal of a license to operate a 24007
crematory facility issued under Chapter 4717. and a permit issued 24008
under Chapter 3704. of the Revised Code; 24009

(3) Treats or disposes of dead animals or parts thereof, or 24010
the blood of animals, and is subject to any of the following: 24011

(a) Inspection under the "Federal Meat Inspection Act," 81 24012
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 24013

(b) Chapter 918. of the Revised Code; 24014

(c) Chapter 953. of the Revised Code. 24015

(D) Neither this chapter nor any rules adopted under it apply 24016
to single-family residential premises; to infectious wastes 24017
generated by individuals for purposes of their own care or 24018
treatment that are disposed of with solid wastes from the 24019
individual's residence; to the temporary storage of solid wastes, 24020
other than scrap tires, prior to their collection for disposal; to 24021
the storage of one hundred or fewer scrap tires unless they are 24022
stored in such a manner that, in the judgment of the director or 24023
the board of health of the health district in which the scrap 24024
tires are stored, the storage causes a nuisance, a hazard to 24025
public health or safety, or a fire hazard; or to the collection of 24026
solid wastes, other than scrap tires, by a political subdivision 24027
or a person holding a franchise or license from a political 24028
subdivision of the state; to composting, as defined in section 24029
1511.01 of the Revised Code, conducted in accordance with section 24030
1511.022 of the Revised Code; or to any person who is licensed to 24031
transport raw rendering material to a compost facility pursuant to 24032
section 953.23 of the Revised Code. 24033

(E)(1) As used in this division and section 3734.18 of the 24034
Revised Code: 24035

(a) "On-site facility" means a facility that stores, treats, 24036
or disposes of hazardous waste that is generated on the premises 24037
of the facility. 24038

(b) "Off-site facility" means a facility that stores, treats, 24039
or disposes of hazardous waste that is generated off the premises 24040
of the facility and includes such a facility that is also an 24041
on-site facility. 24042

(c) "Satellite facility" means any of the following: 24043

(i) An on-site facility that also receives hazardous waste 24044
from other premises owned by the same person who generates the 24045
waste on the facility premises; 24046

(ii) An off-site facility operated so that all of the 24047
hazardous waste it receives is generated on one or more premises 24048
owned by the person who owns the facility; 24049

(iii) An on-site facility that also receives hazardous waste 24050
that is transported uninterruptedly and directly to the facility 24051
through a pipeline from a generator who is not the owner of the 24052
facility. 24053

(2) Except as provided in division (E)(3) of this section, no 24054
person shall establish or operate a hazardous waste facility, or 24055
use a solid waste facility for the storage, treatment, or disposal 24056
of any hazardous waste, without a hazardous waste facility 24057
installation and operation permit ~~from the hazardous waste~~ 24058
~~facility board~~ issued in accordance with section 3734.05 of the 24059
Revised Code and subject to the payment of an application fee not 24060
to exceed one thousand five hundred dollars, payable upon 24061
application for a hazardous waste facility installation and 24062
operation permit and upon application for a renewal permit issued 24063
under division (H) of section 3734.05 of the Revised Code, to be 24064
credited to the hazardous waste facility management fund created 24065
in section 3734.18 of the Revised Code. The term of a hazardous 24066
waste facility installation and operation permit shall not exceed 24067
five years. 24068

In addition to the application fee, there is hereby levied an 24069
annual permit fee to be paid by the permit holder upon the 24070
anniversaries of the date of issuance of the hazardous waste 24071
facility installation and operation permit and of any subsequent 24072
renewal permits and to be credited to the hazardous waste facility 24073
management fund. Annual permit fees totaling forty thousand 24074
dollars or more for any one facility may be paid on a quarterly 24075
basis with the first quarterly payment each year being due on the 24076
anniversary of the date of issuance of the hazardous waste 24077
facility installation and operation permit and of any subsequent 24078

renewal permits. The annual permit fee shall be determined for			24079
each permit holder by the director in accordance with the			24080
following schedule:			24081
TYPE OF BASIC			24082
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	24083
Storage facility using:			24084
Containers	On-site, off-site, and		24085
	satellite	\$ 500	24086
Tanks	On-site, off-site, and		24087
	satellite	500	24088
Waste pile	On-site, off-site, and		24089
	satellite	3,000	24090
Surface impoundment	On-site and satellite	8,000	24091
	Off-site	10,000	24092
Disposal facility using:			24093
Deep well injection	On-site and satellite	15,000	24094
	Off-site	25,000	24095
Landfill	On-site and satellite	25,000	24096
	Off-site	40,000	24097
Land application	On-site and satellite	2,500	24098
	Off-site	5,000	24099
Surface impoundment	On-site and satellite	10,000	24100
	Off-site	20,000	24101
Treatment facility using:			24102
Tanks	On-site, off-site, and		24103
	satellite	700	24104
Surface impoundment	On-site and satellite	8,000	24105
	Off-site	10,000	24106
Incinerator	On-site and satellite	5,000	24107
	Off-site	<u>10,000</u>	24108
Other forms			24109
of treatment	On-site, off-site, and		24110
	satellite	1,000	24111

In determining the annual permit fee required by this 24112
section, the director shall not require additional payments for 24113
multiple units of the same method of storage, treatment, or 24114
disposal or for individual units that are used for both storage 24115
and treatment. A facility using more than one method of storage, 24116
treatment, or disposal shall pay the permit fee indicated by the 24117
schedule for each such method. 24118

The director shall not require the payment of that portion of 24119
an annual permit fee of any permit holder that would apply to a 24120
hazardous waste management unit for which a permit has been 24121
issued, but for which construction has not yet commenced. Once 24122
construction has commenced, the director shall require the payment 24123
of a part of the appropriate fee indicated by the schedule that 24124
bears the same relationship to the total fee that the number of 24125
days remaining until the next anniversary date at which payment of 24126
the annual permit fee is due bears to three hundred sixty-five. 24127

The director, by rules adopted in accordance with Chapters 24128
119. and 3745. of the Revised Code, shall prescribe procedures for 24129
collecting the annual permit fee established by this division and 24130
may prescribe other requirements necessary to carry out this 24131
division. 24132

(3) The prohibition against establishing or operating a 24133
hazardous waste facility without a hazardous waste facility 24134
installation and operation permit ~~from the board~~ does not apply to 24135
either of the following: 24136

(a) A facility that is operating in accordance with a permit 24137
renewal issued under division (H) of section 3734.05 of the 24138
Revised Code, a revision issued under division (I) of that section 24139
as it existed prior to August 20, 1996, or a modification issued 24140
by the director under division (I) of that section on and after 24141
August 20, 1996; 24142

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted 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.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)~~(8)~~(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(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; 24174

(5) A hazardous waste facility as described in division 24175
(E)(3)(a) or (b) of this section. 24176

(G) The director, by order, may exempt any person generating, 24177
collecting, storing, treating, disposing of, or transporting solid 24178
wastes or hazardous waste, or processing solid wastes that consist 24179
of scrap tires, in such quantities or under such circumstances 24180
that, in the determination of the director, are unlikely to 24181
adversely affect the public health or safety or the environment 24182
from any requirement to obtain a registration certificate, permit, 24183
or license or comply with the manifest system or other 24184
requirements of this chapter. Such an exemption shall be 24185
consistent with and equivalent to any regulations adopted by the 24186
administrator of the United States environmental protection agency 24187
under the "Resource Conservation and Recovery Act of 1976," 90 24188
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 24189
provided in this chapter. 24190

(H) No person shall engage in filling, grading, excavating, 24191
building, drilling, or mining on land where a hazardous waste 24192
facility, or a solid waste facility, was operated without prior 24193
authorization from the director, who shall establish the procedure 24194
for granting such authorization by rules adopted in accordance 24195
with Chapter 119. of the Revised Code. 24196

A public utility that has main or distribution lines above or 24197
below the land surface located on an easement or right-of-way 24198
across land where a solid waste facility was operated may engage 24199
in any such activity within the easement or right-of-way without 24200
prior authorization from the director for purposes of performing 24201
emergency repair or emergency replacement of its lines; of the 24202
poles, towers, foundations, or other structures supporting or 24203
sustaining any such lines; or of the appurtenances to those 24204
structures, necessary to restore or maintain existing public 24205

utility service. A public utility may enter upon any such easement 24206
or right-of-way without prior authorization from the director for 24207
purposes of performing necessary or routine maintenance of those 24208
portions of its existing lines; of the existing poles, towers, 24209
foundations, or other structures sustaining or supporting its 24210
lines; or of the appurtenances to any such supporting or 24211
sustaining structure, located on or above the land surface on any 24212
such easement or right-of-way. Within twenty-four hours after 24213
commencing any such emergency repair, replacement, or maintenance 24214
work, the public utility shall notify the director or the 24215
director's authorized representative of those activities and shall 24216
provide such information regarding those activities as the 24217
director or the director's representative may request. Upon 24218
completion of the emergency repair, replacement, or maintenance 24219
activities, the public utility shall restore any land of the solid 24220
waste facility disturbed by those activities to the condition 24221
existing prior to the commencement of those activities. 24222

(I) No owner or operator of a hazardous waste facility, in 24223
the operation of the facility, shall cause, permit, or allow the 24224
emission therefrom of any particulate matter, dust, fumes, gas, 24225
mist, smoke, vapor, or odorous substance that, in the opinion of 24226
the director, unreasonably interferes with the comfortable 24227
enjoyment of life or property by persons living or working in the 24228
vicinity of the facility, or that is injurious to public health. 24229
Any such action is hereby declared to be a public nuisance. 24230

(J) Notwithstanding any other provision of this chapter, in 24231
the event the director finds an imminent and substantial danger to 24232
public health or safety or the environment that creates an 24233
emergency situation requiring the immediate treatment, storage, or 24234
disposal of hazardous waste, the director may issue a temporary 24235
emergency permit to allow the treatment, storage, or disposal of 24236
the hazardous waste at a facility that is not otherwise authorized 24237

by a hazardous waste facility installation and operation permit to 24238
treat, store, or dispose of the waste. The emergency permit shall 24239
not exceed ninety days in duration and shall not be renewed. The 24240
director shall adopt, and may amend, suspend, or rescind, rules in 24241
accordance with Chapter 119. of the Revised Code governing the 24242
issuance, modification, revocation, and denial of emergency 24243
permits. 24244

(K) No owner or operator of a sanitary landfill shall 24245
knowingly accept for disposal, or dispose of, any infectious 24246
wastes, other than those subject to division (A)(1)(c) of section 24247
3734.021 of the Revised Code, that have not been treated to render 24248
them noninfectious. For the purposes of this division, 24249
certification by the owner or operator of the treatment facility 24250
where the wastes were treated on the shipping paper required by 24251
rules adopted under division (D)(2) of that section creates a 24252
rebuttable presumption that the wastes have been so treated. 24253

(L) The director, in accordance with Chapter 119. of the 24254
Revised Code, shall adopt, and may amend, suspend, or rescind, 24255
rules having uniform application throughout the state establishing 24256
a training and certification program that shall be required for 24257
employees of boards of health who are responsible for enforcing 24258
the solid waste and infectious waste provisions of this chapter 24259
and rules adopted under them and for persons who are responsible 24260
for the operation of solid waste facilities or infectious waste 24261
treatment facilities. The rules shall provide all of the 24262
following, without limitation: 24263

(1) The program shall be administered by the director and 24264
shall consist of a course on new solid waste and infectious waste 24265
technologies, enforcement procedures, and rules; 24266

(2) The course shall be offered on an annual basis; 24267

(3) Those persons who are required to take the course under 24268

division (L) of this section shall do so triennially; 24269

(4) Persons who successfully complete the course shall be 24270
certified by the director; 24271

(5) Certification shall be required for all employees of 24272
boards of health who are responsible for enforcing the solid waste 24273
or infectious waste provisions of this chapter and rules adopted 24274
under them and for all persons who are responsible for the 24275
operation of solid waste facilities or infectious waste treatment 24276
facilities; 24277

(6)(a) All employees of a board of health who, on the 24278
effective date of the rules adopted under this division, are 24279
responsible for enforcing the solid waste or infectious waste 24280
provisions of this chapter and the rules adopted under them shall 24281
complete the course and be certified by the director not later 24282
than January 1, 1995; 24283

(b) All employees of a board of health who, after the 24284
effective date of the rules adopted under division (L) of this 24285
section, become responsible for enforcing the solid waste or 24286
infectious waste provisions of this chapter and rules adopted 24287
under them and who do not hold a current and valid certification 24288
from the director at that time shall complete the course and be 24289
certified by the director within two years after becoming 24290
responsible for performing those activities. 24291

No person shall fail to obtain the certification required 24292
under this division. 24293

(M) The director shall not issue a permit under section 24294
3734.05 of the Revised Code to establish a solid waste facility, 24295
or to modify a solid waste facility operating on December 21, 24296
1988, in a manner that expands the disposal capacity or geographic 24297
area covered by the facility, that is or is to be located within 24298
the boundaries of a state park established or dedicated under 24299

Chapter 1541. of the Revised Code, a state park purchase area 24300
established under section 1541.02 of the Revised Code, any unit of 24301
the national park system, or any property that lies within the 24302
boundaries of a national park or recreation area, but that has not 24303
been acquired or is not administered by the secretary of the 24304
United States department of the interior, located in this state, 24305
or any candidate area located in this state and identified for 24306
potential inclusion in the national park system in the edition of 24307
the "national park system plan" submitted under paragraph (b) of 24308
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 24309
U.S.C.A. 1a-5, as amended, current at the time of filing of the 24310
application for the permit, unless the facility or proposed 24311
facility is or is to be used exclusively for the disposal of solid 24312
wastes generated within the park or recreation area and the 24313
director determines that the facility or proposed facility will 24314
not degrade any of the natural or cultural resources of the park 24315
or recreation area. The director shall not issue a variance under 24316
division (A) of this section and rules adopted under it, or issue 24317
an exemption order under division (G) of this section, that would 24318
authorize any such establishment or expansion of a solid waste 24319
facility within the boundaries of any such park or recreation 24320
area, state park purchase area, or candidate area, other than a 24321
solid waste facility exclusively for the disposal of solid wastes 24322
generated within the park or recreation area when the director 24323
determines that the facility will not degrade any of the natural 24324
or cultural resources of the park or recreation area. 24325

(N)(1) The rules adopted under division (A) of this section, 24326
other than those governing variances, do not apply to scrap tire 24327
collection, storage, monocell, monofill, and recovery facilities. 24328
Those facilities are subject to and governed by rules adopted 24329
under sections 3734.70 to 3734.73 of the Revised Code, as 24330
applicable. 24331

(2) Division (C) of this section does not apply to scrap tire 24332
collection, storage, monocell, monofill, and recovery facilities. 24333
The establishment and modification of those facilities are subject 24334
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 24335
Code, as applicable. 24336

(3) The director may adopt, amend, suspend, or rescind rules 24337
under division (A) of this section creating an alternative system 24338
for authorizing the establishment, operation, or modification of a 24339
solid waste compost facility in lieu of the requirement that a 24340
person seeking to establish, operate, or modify a solid waste 24341
compost facility apply for and receive a permit under division (C) 24342
of this section and section 3734.05 of the Revised Code and a 24343
license under division (A)(1) of that section. The rules may 24344
include requirements governing, without limitation, the 24345
classification of solid waste compost facilities, the submittal of 24346
operating records for solid waste compost facilities, and the 24347
creation of a registration or notification system in lieu of the 24348
issuance of permits and licenses for solid waste compost 24349
facilities. The rules shall specify the applicability of divisions 24350
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 24351
Code to a solid waste compost facility. 24352

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 24353
(8), and (9) of this section, no person shall operate or maintain 24354
a solid waste facility without a license issued under this 24355
division by the board of health of the health district in which 24356
the facility is located or by the director of environmental 24357
protection when the health district in which the facility is 24358
located is not on the approved list under section 3734.08 of the 24359
Revised Code. 24360

During the month of December, but before the first day of 24361
January of the next year, every person proposing to continue to 24362

operate an existing solid waste facility shall procure a license 24363
under this division to operate the facility for that year from the 24364
board of health of the health district in which the facility is 24365
located or, if the health district is not on the approved list 24366
under section 3734.08 of the Revised Code, from the director. The 24367
application for such a license shall be submitted to the board of 24368
health or to the director, as appropriate, on or before the last 24369
day of September of the year preceding that for which the license 24370
is sought. In addition to the application fee prescribed in 24371
division (A)(2) of this section, a person who submits an 24372
application after that date shall pay an additional ten per cent 24373
of the amount of the application fee for each week that the 24374
application is late. Late payment fees accompanying an application 24375
submitted to the board of health shall be credited to the special 24376
fund of the health district created in division (B) of section 24377
3734.06 of the Revised Code, and late payment fees accompanying an 24378
application submitted to the director shall be credited to the 24379
general revenue fund. A person who has received a license, upon 24380
sale or disposition of a solid waste facility, and upon consent of 24381
the board of health and the director, may have the license 24382
transferred to another person. The board of health or the director 24383
may include such terms and conditions in a license or revision to 24384
a license as are appropriate to ensure compliance with this 24385
chapter and rules adopted under it. The terms and conditions may 24386
establish the authorized maximum daily waste receipts for the 24387
facility. Limitations on maximum daily waste receipts shall be 24388
specified in cubic yards of volume for the purpose of regulating 24389
the design, construction, and operation of solid waste facilities. 24390
Terms and conditions included in a license or revision to a 24391
license by a board of health shall be consistent with, and pertain 24392
only to the subjects addressed in, the rules adopted under 24393
division (A) of section 3734.02 and division (D) of section 24394
3734.12 of the Revised Code. 24395

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 24396
(9) of this section, each person proposing to open a new solid 24397
waste facility or to modify an existing solid waste facility shall 24398
submit an application for a permit with accompanying detail plans 24399
and specifications to the environmental protection agency for 24400
required approval under the rules adopted by the director pursuant 24401
to division (A) of section 3734.02 of the Revised Code and 24402
applicable rules adopted under division (D) of section 3734.12 of 24403
the Revised Code at least two hundred seventy days before proposed 24404
operation of the facility and shall concurrently make application 24405
for the issuance of a license under division (A)(1) of this 24406
section with the board of health of the health district in which 24407
the proposed facility is to be located. 24408

(b) On and after the effective date of the rules adopted 24409
under division (A) of section 3734.02 of the Revised Code and 24410
division (D) of section 3734.12 of the Revised Code governing 24411
solid waste transfer facilities, each person proposing to open a 24412
new solid waste transfer facility or to modify an existing solid 24413
waste transfer facility shall submit an application for a permit 24414
with accompanying engineering detail plans, specifications, and 24415
information regarding the facility and its method of operation to 24416
the environmental protection agency for required approval under 24417
those rules at least two hundred seventy days before commencing 24418
proposed operation of the facility and concurrently shall make 24419
application for the issuance of a license under division (A)(1) of 24420
this section with the board of health of the health district in 24421
which the facility is located or proposed. 24422

(c) Each application for a permit under division (A)(2)(a) or 24423
(b) of this section shall be accompanied by a nonrefundable 24424
application fee of four hundred dollars that shall be credited to 24425
the general revenue fund. Each application for an annual license 24426
under division (A)(1) or (2) of this section shall be accompanied 24427

by a nonrefundable application fee of one hundred dollars. If the 24428
application for an annual license is submitted to a board of 24429
health on the approved list under section 3734.08 of the Revised 24430
Code, the application fee shall be credited to the special fund of 24431
the health district created in division (B) of section 3734.06 of 24432
the Revised Code. If the application for an annual license is 24433
submitted to the director, the application fee shall be credited 24434
to the general revenue fund. If a permit or license is issued, the 24435
amount of the application fee paid shall be deducted from the 24436
amount of the permit fee due under division (Q) of section 3745.11 24437
of the Revised Code or the amount of the license fee due under 24438
division (A)(1), (2), (3), or (4) of section 3734.06 of the 24439
Revised Code. 24440

(d) As used in divisions (A)(2)(d), (e), and (f) of this 24441
section, "modify" means any of the following: 24442

(i) Any increase of more than ten per cent in the total 24443
capacity of a solid waste facility; 24444

(ii) Any expansion of the limits of solid waste placement at 24445
a solid waste facility; 24446

(iii) Any increase in the depth of excavation at a solid 24447
waste facility; 24448

(iv) Any change in the technique of waste receipt or type of 24449
waste received at a solid waste facility that may endanger human 24450
health, as determined by the director by rules adopted in 24451
accordance with Chapter 119. of the Revised Code. 24452

Not later than thirty-five days after submitting an 24453
application under division (A)(2)(a) or (b) of this section for a 24454
permit to open a new or modify an existing solid waste facility, 24455
the applicant, in conjunction with an officer or employee of the 24456
environmental protection agency, shall hold a public meeting on 24457
the application within the county in which the new or modified 24458

solid waste facility is or is proposed to be located or within a 24459
contiguous county. Not less than thirty days before holding the 24460
public meeting on the application, the applicant shall publish 24461
notice of the meeting in each newspaper of general circulation 24462
that is published in the county in which the facility is or is 24463
proposed to be located. If no newspaper of general circulation is 24464
published in the county, the applicant shall publish the notice in 24465
a newspaper of general circulation in the county. The notice shall 24466
contain the date, time, and location of the public meeting and a 24467
general description of the proposed new or modified facility. Not 24468
later than five days after publishing the notice, the applicant 24469
shall send by certified mail a copy of the notice and the date the 24470
notice was published to the director and the legislative authority 24471
of each municipal corporation, township, and county, and to the 24472
chief executive officer of each municipal corporation, in which 24473
the facility is or is proposed to be located. At the public 24474
meeting, the applicant shall provide information and describe the 24475
application and respond to comments or questions concerning the 24476
application, and the officer or employee of the agency shall 24477
describe the permit application process. At the public meeting, 24478
any person may submit written or oral comments on or objections to 24479
the application. Not more than thirty days after the public 24480
meeting, the applicant shall provide the director with a copy of a 24481
transcript of the full meeting, copies of any exhibits, displays, 24482
or other materials presented by the applicant at the meeting, and 24483
the original copy of any written comments submitted at the 24484
meeting. 24485

(e) Except as provided in division (A)(2)(f) of this section, 24486
prior to taking an action, other than a proposed or final denial, 24487
upon an application submitted under division (A)(2)(a) of this 24488
section for a permit to open a new or modify an existing solid 24489
waste facility, the director shall hold a public information 24490
session and a public hearing on the application within the county 24491

in which the new or modified solid waste facility is or is 24492
proposed to be located or within a contiguous county. If the 24493
application is for a permit to open a new solid waste facility, 24494
the director shall hold the hearing not less than fourteen days 24495
after the information session. If the application is for a permit 24496
to modify an existing solid waste facility, the director may hold 24497
both the information session and the hearing on the same day 24498
unless any individual affected by the application requests in 24499
writing that the information session and the hearing not be held 24500
on the same day, in which case the director shall hold the hearing 24501
not less than fourteen days after the information session. The 24502
director shall publish notice of the public information session or 24503
public hearing not less than thirty days before holding the 24504
information session or hearing, as applicable. The notice shall be 24505
published in each newspaper of general circulation that is 24506
published in the county in which the facility is or is proposed to 24507
be located. If no newspaper of general circulation is published in 24508
the county, the director shall publish the notice in a newspaper 24509
of general circulation in the county. The notice shall contain the 24510
date, time, and location of the information session or hearing, as 24511
applicable, and a general description of the proposed new or 24512
modified facility. At the public information session, an officer 24513
or employee of the environmental protection agency shall describe 24514
the status of the permit application and be available to respond 24515
to comments or questions concerning the application. At the public 24516
hearing, any person may submit written or oral comments on or 24517
objections to the approval of the application. The applicant, or a 24518
representative of the applicant who has knowledge of the location, 24519
construction, and operation of the facility, shall attend the 24520
information session and public hearing to respond to comments or 24521
questions concerning the facility directed to the applicant or 24522
representative by the officer or employee of the environmental 24523
protection agency presiding at the information session and 24524

hearing. 24525

(f) The solid waste management policy committee of a county 24526
or joint solid waste management district may adopt a resolution 24527
requesting expeditious consideration of a specific application 24528
submitted under division (A)(2)(a) of this section for a permit to 24529
modify an existing solid waste facility within the district. The 24530
resolution shall make the finding that expedited consideration of 24531
the application without the public information session and public 24532
hearing under division (A)(2)(e) of this section is in the public 24533
interest and will not endanger human health, as determined by the 24534
director by rules adopted in accordance with Chapter 119. of the 24535
Revised Code. Upon receiving such a resolution, the director, at 24536
the director's discretion, may issue a final action upon the 24537
application without holding a public information session or public 24538
hearing pursuant to division (A)(2)(e) of this section. 24539

(3) Except as provided in division (A)(10) of this section, 24540
and unless the owner or operator of any solid waste facility, 24541
other than a solid waste transfer facility or a compost facility 24542
that accepts exclusively source separated yard wastes, that 24543
commenced operation on or before July 1, 1968, has obtained an 24544
exemption from the requirements of division (A)(3) of this section 24545
in accordance with division (G) of section 3734.02 of the Revised 24546
Code, the owner or operator shall submit to the director an 24547
application for a permit with accompanying engineering detail 24548
plans, specifications, and information regarding the facility and 24549
its method of operation for approval under rules adopted under 24550
division (A) of section 3734.02 of the Revised Code and applicable 24551
rules adopted under division (D) of section 3734.12 of the Revised 24552
Code in accordance with the following schedule: 24553

(a) Not later than September 24, 1988, if the facility is 24554
located in the city of Garfield Heights or Parma in Cuyahoga 24555
county; 24556

(b) Not later than December 24, 1988, if the facility is 24557
located in Delaware, Greene, Guernsey, Hamilton, Madison, 24558
Mahoning, Ottawa, or Vinton county; 24559

(c) Not later than March 24, 1989, if the facility is located 24560
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 24561
Washington county, or is located in the city of Brooklyn or 24562
Cuyahoga Heights in Cuyahoga county; 24563

(d) Not later than June 24, 1989, if the facility is located 24564
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 24565
Summit county or is located in Cuyahoga county outside the cities 24566
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 24567

(e) Not later than September 24, 1989, if the facility is 24568
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 24569
county; 24570

(f) Not later than December 24, 1989, if the facility is 24571
located in a county not listed in divisions (A)(3)(a) to (e) of 24572
this section; 24573

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 24574
section, not later than December 31, 1990, if the facility is a 24575
solid waste facility owned by a generator of solid wastes when the 24576
solid waste facility exclusively disposes of solid wastes 24577
generated at one or more premises owned by the generator 24578
regardless of whether the facility is located on a premises where 24579
the wastes are generated and if the facility disposes of more than 24580
one hundred thousand tons of solid wastes per year, provided that 24581
any such facility shall be subject to division (A)(5) of this 24582
section. 24583

(4) Except as provided in divisions (A)(8), (9), and (10) of 24584
this section, unless the owner or operator of any solid waste 24585
facility for which a permit was issued after July 1, 1968, but 24586
before January 1, 1980, has obtained an exemption from the 24587

requirements of division (A)(4) of this section under division (G) 24588
of section 3734.02 of the Revised Code, the owner or operator 24589
shall submit to the director an application for a permit with 24590
accompanying engineering detail plans, specifications, and 24591
information regarding the facility and its method of operation for 24592
approval under those rules. 24593

(5) The director may issue an order in accordance with 24594
Chapter 3745. of the Revised Code to the owner or operator of a 24595
solid waste facility requiring the person to submit to the 24596
director updated engineering detail plans, specifications, and 24597
information regarding the facility and its method of operation for 24598
approval under rules adopted under division (A) of section 3734.02 24599
of the Revised Code and applicable rules adopted under division 24600
(D) of section 3734.12 of the Revised Code if, in the director's 24601
judgment, conditions at the facility constitute a substantial 24602
threat to public health or safety or are causing or contributing 24603
to or threatening to cause or contribute to air or water pollution 24604
or soil contamination. Any person who receives such an order shall 24605
submit the updated engineering detail plans, specifications, and 24606
information to the director within one hundred eighty days after 24607
the effective date of the order. 24608

(6) The director shall act upon an application submitted 24609
under division (A)(3) or (4) of this section and any updated 24610
engineering plans, specifications, and information submitted under 24611
division (A)(5) of this section within one hundred eighty days 24612
after receiving them. If the director denies any such permit 24613
application, the order denying the application or disapproving the 24614
plans shall include the requirements that the owner or operator 24615
submit a plan for closure and post-closure care of the facility to 24616
the director for approval within six months after issuance of the 24617
order, cease accepting solid wastes for disposal or transfer at 24618
the facility, and commence closure of the facility not later than 24619

one year after issuance of the order. If the director determines 24620
that closure of the facility within that one-year period would 24621
result in the unavailability of sufficient solid waste management 24622
facility capacity within the county or joint solid waste 24623
management district in which the facility is located to dispose of 24624
or transfer the solid waste generated within the district, the 24625
director in the order of denial or disapproval may postpone 24626
commencement of closure of the facility for such period of time as 24627
the director finds necessary for the board of county commissioners 24628
or directors of the district to secure access to or for there to 24629
be constructed within the district sufficient solid waste 24630
management facility capacity to meet the needs of the district, 24631
provided that the director shall certify in the director's order 24632
that postponing the date for commencement of closure will not 24633
endanger ground water or any property surrounding the facility, 24634
allow methane gas migration to occur, or cause or contribute to 24635
any other type of environmental damage. 24636

If an emergency need for disposal capacity that may affect 24637
public health and safety exists as a result of closure of a 24638
facility under division (A)(6) of this section, the director may 24639
issue an order designating another solid waste facility to accept 24640
the wastes that would have been disposed of at the facility to be 24641
closed. 24642

(7) If the director determines that standards more stringent 24643
than those applicable in rules adopted under division (A) of 24644
section 3734.02 of the Revised Code and division (D) of section 24645
3734.12 of the Revised Code, or standards pertaining to subjects 24646
not specifically addressed by those rules, are necessary to ensure 24647
that a solid waste facility constructed at the proposed location 24648
will not cause a nuisance, cause or contribute to water pollution, 24649
or endanger public health or safety, the director may issue a 24650
permit for the facility with such terms and conditions as the 24651

director finds necessary to protect public health and safety and 24652
the environment. If a permit is issued, the director shall state 24653
in the order issuing it the specific findings supporting each such 24654
term or condition. 24655

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 24656
not apply to a solid waste compost facility that accepts 24657
exclusively source separated yard wastes and that is registered 24658
under division (C) of section 3734.02 of the Revised Code or, 24659
unless otherwise provided in rules adopted under division (N)(3) 24660
of section 3734.02 of the Revised Code, to a solid waste compost 24661
facility if the director has adopted rules establishing an 24662
alternative system for authorizing the establishment, operation, 24663
or modification of a solid waste compost facility under that 24664
division. 24665

(9) Divisions (A)(1) to (7) of this section do not apply to 24666
scrap tire collection, storage, monocell, monofill, and recovery 24667
facilities. The approval of plans and specifications, as 24668
applicable, and the issuance of registration certificates, 24669
permits, and licenses for those facilities are subject to sections 24670
3734.75 to 3734.78 of the Revised Code, as applicable, and section 24671
3734.81 of the Revised Code. 24672

(10) Divisions (A)(3) and (4) of this section do not apply to 24673
a solid waste incinerator that was placed into operation on or 24674
before October 12, 1994, and that is not authorized to accept and 24675
treat infectious wastes pursuant to division (B) of this section. 24676

(B)(1) Each person who is engaged in the business of treating 24677
infectious wastes for profit at a treatment facility located off 24678
the premises where the wastes are generated that is in operation 24679
on August 10, 1988, and who proposes to continue operating the 24680
facility shall submit to the board of health of the health 24681
district in which the facility is located an application for a 24682
license to operate the facility. 24683

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter

and rules adopted under them. 24716

(b) Each person proposing to open a new infectious waste 24717
treatment facility or to modify an existing infectious waste 24718
treatment facility shall submit an application for a permit with 24719
accompanying detail plans and specifications to the environmental 24720
protection agency for required approval under the rules adopted by 24721
the director pursuant to section 3734.021 of the Revised Code two 24722
hundred seventy days before proposed operation of the facility and 24723
concurrently shall make application for a license with the board 24724
of health of the health district in which the facility is or is 24725
proposed to be located. Not later than ninety days after receiving 24726
a completed application under division (B)(2)(b) of this section 24727
for a permit to open a new infectious waste treatment facility or 24728
modify an existing infectious waste treatment facility to expand 24729
its treatment capacity, or receiving a completed application under 24730
division (A)(2)(a) of this section for a permit to open a new 24731
solid waste incineration facility, or modify an existing solid 24732
waste incineration facility to also treat infectious wastes or to 24733
increase its infectious waste treatment capacity, that pertains to 24734
a facility for which a notation authorizing infectious waste 24735
treatment is included or proposed to be included in the solid 24736
waste incineration facility's license pursuant to division (B)(3) 24737
of this section, the director shall hold a public hearing on the 24738
application within the county in which the new or modified 24739
infectious waste or solid waste facility is or is proposed to be 24740
located or within a contiguous county. Not less than thirty days 24741
before holding the public hearing on the application, the director 24742
shall publish notice of the hearing in each newspaper that has 24743
general circulation and that is published in the county in which 24744
the facility is or is proposed to be located. If there is no 24745
newspaper that has general circulation and that is published in 24746
the county, the director shall publish the notice in a newspaper 24747
of general circulation in the county. The notice shall contain the 24748

date, time, and location of the public hearing and a general 24749
description of the proposed new or modified facility. At the 24750
public hearing, any person may submit written or oral comments on 24751
or objections to the approval or disapproval of the application. 24752
The applicant, or a representative of the applicant who has 24753
knowledge of the location, construction, and operation of the 24754
facility, shall attend the public hearing to respond to comments 24755
or questions concerning the facility directed to the applicant or 24756
representative by the officer or employee of the environmental 24757
protection agency presiding at the hearing. 24758

(c) Each application for a permit under division (B)(2)(b) of 24759
this section shall be accompanied by a nonrefundable application 24760
fee of four hundred dollars that shall be credited to the general 24761
revenue fund. Each application for an annual license under 24762
division (B)(2)(a) of this section shall be accompanied by a 24763
nonrefundable application fee of one hundred dollars. If the 24764
application for an annual license is submitted to a board of 24765
health on the approved list under section 3734.08 of the Revised 24766
Code, the application fee shall be credited to the special 24767
infectious waste fund of the health district created in division 24768
(C) of section 3734.06 of the Revised Code. If the application for 24769
an annual license is submitted to the director, the application 24770
fee shall be credited to the general revenue fund. If a permit or 24771
license is issued, the amount of the application fee paid shall be 24772
deducted from the amount of the permit fee due under division (Q) 24773
of section 3745.11 of the Revised Code or the amount of the 24774
license fee due under division (C) of section 3734.06 of the 24775
Revised Code. 24776

(d) The owner or operator of any infectious waste treatment 24777
facility that commenced operation on or before July 1, 1968, shall 24778
submit to the director an application for a permit with 24779
accompanying engineering detail plans, specifications, and 24780

information regarding the facility and its method of operation for 24781
approval under rules adopted under section 3734.021 of the Revised 24782
Code in accordance with the following schedule: 24783

(i) Not later than December 24, 1988, if the facility is 24784
located in Delaware, Greene, Guernsey, Hamilton, Madison, 24785
Mahoning, Ottawa, or Vinton county; 24786

(ii) Not later than March 24, 1989, if the facility is 24787
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 24788
or Washington county, or is located in the city of Brooklyn, 24789
Cuyahoga Heights, or Parma in Cuyahoga county; 24790

(iii) Not later than June 24, 1989, if the facility is 24791
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 24792
Lucas, or Summit county or is located in Cuyahoga county outside 24793
the cities of Brooklyn, Cuyahoga Heights, and Parma; 24794

(iv) Not later than September 24, 1989, if the facility is 24795
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 24796
county; 24797

(v) Not later than December 24, 1989, if the facility is 24798
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 24799
of this section. 24800

The owner or operator of an infectious waste treatment 24801
facility required to submit a permit application under division 24802
(B)(2)(d) of this section is not required to pay any permit 24803
application fee under division (B)(2)(c) of this section, or 24804
permit fee under division (Q) of section 3745.11 of the Revised 24805
Code, with respect thereto unless the owner or operator also 24806
proposes to modify the facility. 24807

(e) The director may issue an order in accordance with 24808
Chapter 3745. of the Revised Code to the owner or operator of an 24809
infectious waste treatment facility requiring the person to submit 24810
to the director updated engineering detail plans, specifications, 24811

and information regarding the facility and its method of operation 24812
for approval under rules adopted under section 3734.021 of the 24813
Revised Code if, in the director's judgment, conditions at the 24814
facility constitute a substantial threat to public health or 24815
safety or are causing or contributing to or threatening to cause 24816
or contribute to air or water pollution or soil contamination. Any 24817
person who receives such an order shall submit the updated 24818
engineering detail plans, specifications, and information to the 24819
director within one hundred eighty days after the effective date 24820
of the order. 24821

(f) The director shall act upon an application submitted 24822
under division (B)(2)(d) of this section and any updated 24823
engineering plans, specifications, and information submitted under 24824
division (B)(2)(e) of this section within one hundred eighty days 24825
after receiving them. If the director denies any such permit 24826
application or disapproves any such updated engineering plans, 24827
specifications, and information, the director shall include in the 24828
order denying the application or disapproving the plans the 24829
requirement that the owner or operator cease accepting infectious 24830
wastes for treatment at the facility. 24831

(3) Division (B) of this section does not apply to an 24832
infectious waste treatment facility that meets any of the 24833
following conditions: 24834

(a) Is owned or operated by the generator of the wastes and 24835
exclusively treats, by methods, techniques, and practices 24836
established by rules adopted under division (C)(1) or (3) of 24837
section 3734.021 of the Revised Code, wastes that are generated at 24838
any premises owned or operated by that generator regardless of 24839
whether the wastes are generated on the same premises where the 24840
generator's treatment facility is located or, if the generator is 24841
a hospital as defined in section 3727.01 of the Revised Code, 24842
infectious wastes that are described in division (A)(1)(g), (h), 24843

or (i) of section 3734.021 of the Revised Code; 24844

(b) Holds a license or renewal of a license to operate a 24845
crematory facility issued under Chapter 4717. and a permit issued 24846
under Chapter 3704. of the Revised Code; 24847

(c) Treats or disposes of dead animals or parts thereof, or 24848
the blood of animals, and is subject to any of the following: 24849

(i) Inspection under the "Federal Meat Inspection Act," 81 24850
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 24851

(ii) Chapter 918. of the Revised Code; 24852

(iii) Chapter 953. of the Revised Code. 24853

Nothing in division (B) of this section requires a facility 24854
that holds a license issued under division (A) of this section as 24855
a solid waste facility and that also treats infectious wastes by 24856
the same method, technique, or process to obtain a license under 24857
division (B) of this section as an infectious waste treatment 24858
facility. However, the solid waste facility license for the 24859
facility shall include the notation that the facility also treats 24860
infectious wastes. 24861

On and after the effective date of the amendments to the 24862
rules adopted under division (C)(2) of section 3734.021 of the 24863
Revised Code that are required by Section 6 of Substitute House 24864
Bill No. 98 of the 120th General Assembly, the director shall not 24865
issue a permit to open a new solid waste incineration facility 24866
unless the proposed facility complies with the requirements for 24867
the location of new infectious waste incineration facilities 24868
established in the required amendments to those rules. 24869

(C) Except for a facility or activity described in division 24870
(E)(3) of section 3734.02 of the Revised Code, a person who 24871
proposes to establish or operate a hazardous waste facility shall 24872
submit ~~an~~ a complete application for a hazardous waste facility 24873

installation and operation permit and accompanying detail plans, 24874
specifications, and such information as the director may require 24875
to the environmental protection agency, ~~except as provided in~~ 24876
~~division (E)(2) of this section,~~ at least one hundred eighty days 24877
before the proposed beginning of operation of the facility. The 24878
applicant shall notify by certified mail the legislative authority 24879
of each municipal corporation, township, and county in which the 24880
facility is proposed to be located of the submission of the 24881
application within ten days after the submission or at such 24882
earlier time as the director may establish by rule. If the 24883
application is for a proposed new hazardous waste disposal or 24884
thermal treatment facility, the applicant also shall give actual 24885
notice of the general design and purpose of the facility to the 24886
legislative authority of each municipal corporation, township, and 24887
county in which the facility is proposed to be located at least 24888
ninety days before the permit application is submitted to the 24889
environmental protection agency. 24890

In accordance with rules adopted under section 3734.12 of the 24891
Revised Code, prior to the submission of a complete application 24892
for a hazardous waste facility installation and operation permit, 24893
the applicant shall hold at least one meeting in the township or 24894
municipal corporation in which the facility is proposed to be 24895
located, whichever is geographically closer to the proposed 24896
location of the facility. The meeting shall be open to the public 24897
and shall be held to inform the community of the proposed 24898
hazardous waste management activities and to solicit questions 24899
from the community concerning the activities. 24900

~~(D)(1) There is hereby created the hazardous waste facility~~ 24901
~~board, composed of the director of environmental protection who~~ 24902
~~shall serve as chairperson, the director of natural resources, and~~ 24903
~~the chairperson of the Ohio water development authority, or their~~ 24904
~~respective designees, and one chemical engineer and one geologist~~ 24905

~~who each shall be employed by a state university as defined in 24906
section 3345.011 of the Revised Code. The chemical engineer and 24907
geologist each shall be appointed by the governor, with the advice 24908
and consent of the senate, for a term of two years. The chemical 24909
engineer and geologist each shall receive as compensation five 24910
thousand dollars per year, plus expenses necessarily incurred in 24911
the performance of their duties. 24912~~

~~The board shall not issue any final order without the consent 24913
of at least three members. 24914~~

~~(2) The hazardous waste facility board shall do both of the 24915
following: 24916~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules 24917
governing procedure to be followed in hearings before the board: 24918~~

~~(b) Except as provided in section 3734.123 of the Revised 24919
Code, approve or disapprove applications for a hazardous waste 24920
facility installation and operation permit for new facilities and 24921
applications for modifications to existing permits for which the 24922
board has jurisdiction as provided in division (I)(3) of this 24923
section. 24924~~

~~(3) Except as provided in section 3734.123 of the Revised 24925
Code, upon receipt of the completed application for a hazardous 24926
waste facility installation and operation permit and a preliminary 24927
determination by the staff of the environmental protection agency 24928
that the application appears to comply with agency rules and to 24929
meet the performance standards set forth in divisions (D), (I), 24930
and (J) of section 3734.12 of the Revised Code, the director shall 24931
transmit the application to the board, which shall do all of the 24932
following: 24933~~

~~(a) Promptly fix a date for a public hearing on the 24934
application, not fewer than sixty nor more than ninety days after 24935
receipt of the completed application. At the public hearing, any 24936~~

~~person may submit written or oral comments or objections to the 24937
approval or disapproval of the application. A representative of 24938
the applicant who has knowledge of the location, construction, 24939
operation, closure, and post closure care, if applicable, of the 24940
facility shall attend the public hearing in order to respond to 24941
comments or questions concerning the facility directed to the 24942
representative by the presiding officer. 24943~~

~~(b) Give public notice of the date of the public hearing and 24944
a summary of the application in a newspaper having general 24945
circulation in the county in which the facility is proposed to be 24946
located. The notice shall contain, at a minimum, the date, time, 24947
and location of the public hearing and shall include the location 24948
and street address of, or the nearest intersection to, the 24949
proposed facility, a description of the proposed facility, and the 24950
location where copies of the application, a short statement by the 24951
applicant of the anticipated environmental impact of the facility, 24952
and a map of the facility are available for inspection. 24953~~

~~(c) Promptly fix a date for an adjudication hearing, not 24954
fewer than ninety nor more than one hundred twenty days after 24955
receipt of the completed application, at which hearing the board 24956
shall hear and decide all disputed issues between the parties 24957
respecting the approval or disapproval of the application. 24958~~

~~(4) The parties to any adjudication hearing before the board 24959
upon a completed application shall be the following: 24960~~

~~(a) The applicant; 24961~~

~~(b) The staff of the environmental protection agency; 24962~~

~~(c) The board of county commissioners of the county, the 24963
board of township trustees of the township, and the chief 24964
executive officer of the municipal corporation in which the 24965
facility is proposed to be located; 24966~~

~~(d) Any other person who would be aggrieved or adversely 24967~~

~~affected by the proposed facility and who files a petition to 24968
intervene in the adjudication hearing not later than thirty days 24969
after the date of publication of the notice required in division 24970
(D)(3)(b) of this section if the petition is granted by the board 24971
for good cause shown. The board may allow intervention by other 24972
aggrieved or adversely affected persons up to fifteen days prior 24973
to the date of the adjudication hearing for good cause shown when 24974
the intervention would not be unduly burdensome to or cause a 24975
delay in the permitting process. 24976~~

~~(5) The hazardous waste facility board shall conduct any 24977
adjudication hearing upon disputed issues in accordance with 24978
Chapter 119. of the Revised Code and the rules of the board 24979
governing the procedure of such hearings. Each party may call and 24980
examine witnesses and submit other evidence respecting the 24981
disputed issues presented by an application. A written record 24982
shall be made of the hearing and of all testimony and evidence 24983
submitted to the board upon receipt of a complete application for 24984
a hazardous waste facility installation and operation permit under 24985
division (C) of this section, the director shall consider the 24986
application and accompanying information to determine whether the 24987
application complies with agency rules and the requirements of 24988
division (D)(2) of this section. After making a determination, the 24989
director shall issue either a draft permit or a notice of intent 24990
to deny the permit. The director, in accordance with rules adopted 24991
under section 3734.12 of the Revised Code or with rules adopted to 24992
implement Chapter 3745. of the Revised Code, shall provide public 24993
notice of the application and the draft permit or the notice of 24994
intent to deny the permit, provide an opportunity for public 24995
comments, and, if significant interest is shown, schedule a public 24996
meeting in the county in which the facility is proposed to be 24997
located and give public notice of the date, time, and location of 24998
the public meeting in a newspaper of general circulation in that 24999
county. 25000~~

~~(6)(2)~~ The ~~board~~ director shall not approve an application 25001
for a hazardous waste facility installation and operation permit 25002
or an application for a modification under division (I)(3) of this 25003
section unless ~~it~~ the director finds and determines as follows: 25004

(a) The nature and volume of the waste to be treated, stored, 25005
or disposed of at the facility; 25006

(b) That the facility complies with the director's hazardous 25007
waste standards adopted pursuant to section 3734.12 of the Revised 25008
Code; 25009

(c) That the facility represents the minimum adverse 25010
environmental impact, considering the state of available 25011
technology and the nature and economics of various alternatives, 25012
and other pertinent considerations; 25013

(d) That the facility represents the minimum risk of all of 25014
the following: 25015

(i) ~~Contamination of ground and surface waters;~~ 25016

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 25017
methods; 25018

~~(iii)~~ ~~Accident~~ (ii) Release of hazardous waste during 25019
transportation of hazardous waste to or from the facility; 25020

~~(iv)~~ ~~Impact~~ (iii) Adverse impact on the public health and 25021
safety; 25022

~~(v)~~ ~~Air pollution;~~ 25023

~~(vi)~~ ~~Soil contamination.~~ 25024

(e) That the facility will comply with this chapter and 25025
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 25026
and standards adopted under ~~those chapters~~ them; 25027

(f) That if the owner of the facility, the operator of the 25028
facility, or any other person in a position with the facility from 25029

which the person may influence the installation and operation of 25030
the facility has been involved in any prior activity involving 25031
transportation, treatment, storage, or disposal of hazardous 25032
waste, that person has a history of compliance with this chapter 25033
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 25034
rules and standards adopted under ~~those chapters~~ them, the 25035
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 25036
42 U.S.C.A. 6921, as amended, and all regulations adopted under 25037
it, and similar laws and rules of other states if any such prior 25038
operation was located in another state that demonstrates 25039
sufficient reliability, expertise, and competency to operate a 25040
hazardous waste facility under the applicable provisions of this 25041
chapter and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code, 25042
the applicable rules and standards adopted under ~~those chapters~~ 25043
them, and terms and conditions of a hazardous waste facility 25044
installation and operation permit, given the potential for harm to 25045
the public health and safety and the environment that could result 25046
from the irresponsible operation of the facility~~†~~. For off-site 25047
facilities, as defined in section 3734.41 of the Revised Code, the 25048
director may use the investigative reports of the attorney general 25049
prepared pursuant to section 3734.42 of the Revised Code as a 25050
basis for making a finding and determination under division 25051
(D)(2)(f) of this section. 25052

(g) That the active areas within a new hazardous waste 25053
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 25054
(e), as amended, or organic waste that is toxic and is listed 25055
under 40 C.F.R. 261, as amended, is being stored, treated, or 25056
disposed of and where the aggregate of the storage design capacity 25057
and the disposal design capacity of all hazardous waste in those 25058
areas is greater than two hundred fifty thousand gallons, are not 25059
located or operated within any of the following: 25060

(i) Two thousand feet of any residence, school, hospital, 25061

jail, or prison; 25062

(ii) Any naturally occurring wetland; 25063

(iii) Any flood hazard area if the applicant cannot show that 25064
the facility will be designed, constructed, operated, and 25065
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 25066
~~procedures will be in effect to remove the waste before flood~~ 25067
~~waters can reach it.~~ 25068

Division (D)~~(6)~~(2)(g) of this section does not apply to the 25069
facility of any applicant who demonstrates to the ~~board~~ director 25070
that the limitations specified in that division are not necessary 25071
because of the nature or volume of the waste and the manner of 25072
management applied, the facility will impose no substantial danger 25073
to the health and safety of persons occupying the structures 25074
listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 25075
facility is to be located or operated in an area where the 25076
proposed hazardous waste activities will not be incompatible with 25077
existing land uses in the area. 25078

(h) That the facility will not be located within the 25079
boundaries of a state park established or dedicated under Chapter 25080
1541. of the Revised Code, a state park purchase area established 25081
under section 1541.02 of the Revised Code, any unit of the 25082
national park system, or any property that lies within the 25083
boundaries of a national park or recreation area, but that has not 25084
been acquired or is not administered by the secretary of the 25085
United States department of the interior, located in this state, 25086
or any candidate area located in this state identified for 25087
potential inclusion in the national park system in the edition of 25088
the "national park system plan" submitted under paragraph (b) of 25089
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 25090
U.S.C.A. 1a-5, as amended, current at the time of filing of the 25091
application for the permit, unless the facility will be used 25092
exclusively for the storage of hazardous waste generated within 25093

the park or recreation area in conjunction with the operation of 25094
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 25095
does not apply to the facility of any applicant for modification 25096
of a permit unless the modification application proposes to 25097
increase the land area included in the facility or to increase the 25098
quantity of hazardous waste that will be treated, stored, or 25099
disposed of at the facility. 25100

~~In rendering a decision upon an application for a hazardous 25101
waste facility installation and operation permit, the board shall 25102
issue a written order and opinion, which shall include the 25103
specific findings of fact and conclusions of law that support the 25104
board's approval or disapproval of the application. 25105~~

(3) Not later than one hundred eighty days after the end of 25106
the public comment period, the director, without prior hearing, 25107
shall issue or deny the permit in accordance with Chapter 3745. of 25108
the Revised Code. If the ~~board~~ director approves an application 25109
for a hazardous waste facility installation and operation permit, 25110
~~as a part of its written order, it~~ the director shall issue the 25111
permit, upon such terms and conditions as the ~~board~~ director finds 25112
are necessary to ensure the construction and operation of the 25113
hazardous waste facility in accordance with the standards of this 25114
section. 25115

~~(7) Any party adversely affected by an order of the hazardous 25116
waste facility board may appeal the order and decision of the 25117
board to the court of appeals of Franklin county. An appellant 25118
shall file with the board a notice of appeal, which shall 25119
designate the order appealed from. A copy of the notice also shall 25120
be filed by the appellant with the court, and a copy shall be sent 25121
by certified mail to each party to the adjudication hearing before 25122
the board. Such notices shall be filed and mailed within thirty 25123
days after the date upon which the appellant received notice from 25124
the board by certified mail of the making of the order appealed 25125~~

~~from. No appeal bond shall be required to make an appeal effective.~~ 25126
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~~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.~~ 25128
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~~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.~~ 25134
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~~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 additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the board.~~ 25150
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~~The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such~~ 25156
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~~additional evidence as the court has admitted, that the order is 25158
supported by reliable, probative, and substantial evidence and is 25159
in accordance with law. In the absence of such findings, it shall 25160
reverse, vacate, or modify the order or make such other ruling as 25161
is supported by reliable, probative, and substantial evidence and 25162
is in accordance with law. The judgment of the court shall be 25163
final and conclusive unless reversed, vacated, or modified on 25164
appeal. Such appeals may be taken by any party to the appeal 25165
pursuant to the Rules of Practice of the Supreme Court and, to the 25166
extent not in conflict with those rules, Chapter 2505. of the 25167
Revised Code. 25168~~

~~(E)(1) Upon receipt of a completed application, the board 25169
shall issue a hazardous waste facility installation and operation 25170
permit for a hazardous waste facility subject to the requirements 25171
of divisions (D)(6) and (7) of this section and all applicable 25172
federal regulations if the facility for which the permit is 25173
requested satisfies all of the following: 25174~~

~~(a) Was in operation immediately prior to October 9, 1980; 25175~~

~~(b) Was in substantial compliance with applicable statutes 25176
and rules in effect immediately prior to October 9, 1980, as 25177
determined by the director; 25178~~

~~(c) Demonstrates to the board that its operations after 25179
October 9, 1980, comply with applicable performance standards 25180
adopted by the director pursuant to division (D) of section 25181
3734.12 of the Revised Code; 25182~~

~~(d) Submits a completed application for a permit under 25183
division (C) of this section within six months after October 9, 25184
1980. 25185~~

~~The board shall act on the application within twelve months 25186
after October 9, 1980. 25187~~

~~(2) A hazardous waste facility that was in operation 25188~~

~~immediately prior to October 9, 1980, may continue to operate~~ 25189
~~after that date if it does all of the following:~~ 25190

~~(a) Complies with performance standards adopted by the~~ 25191
~~director pursuant to division (D) of section 3734.12 of the~~ 25192
~~Revised Code;~~ 25193

~~(b) Submits a completed application for a hazardous waste~~ 25194
~~installation and operation permit under division (C) of this~~ 25195
~~section within six months after October 9, 1980;~~ 25196

~~(c) Obtains the permit under division (D) of this section~~ 25197
~~within twelve months after October 9, 1980.~~ 25198

(3) No political subdivision of this state shall require any 25199
additional zoning or other approval, consent, permit, certificate, 25200
or condition for the construction or operation of a hazardous 25201
waste facility authorized by a hazardous waste facility 25202
installation and operation permit issued pursuant to this chapter, 25203
nor shall any political subdivision adopt or enforce any law, 25204
ordinance, or rule that in any way alters, impairs, or limits the 25205
authority granted in the permit. 25206

~~(4) After the issuance of a hazardous waste facility~~ 25207
~~installation and operation permit by the board, each hazardous~~ 25208
~~waste facility shall be subject to the rules and supervision of~~ 25209
~~the director during the period of its operation, closure, and~~ 25210
~~post closure care, if applicable.~~ 25211

(F) ~~Upon approval of the board in accordance with divisions~~ 25212
~~(D) and (E) of this section, the board~~ The director may issue a 25213
single hazardous waste facility installation and operation permit 25214
to a person who operates two or more adjoining facilities where 25215
hazardous waste is stored, treated, or disposed of if the 25216
application includes detail plans, specifications, and information 25217
on all facilities. For the purposes of this section, "adjoining" 25218
means sharing a common boundary, separated only by a public road, 25219

or in such proximity that the director determines that the 25220
issuance of a single permit will not create a hazard to the public 25221
health or safety or the environment. 25222

(G) No person shall falsify or fail to keep or submit any 25223
plans, specifications, data, reports, records, manifests, or other 25224
information required to be kept or submitted to the director ~~or to~~ 25225
~~the hazardous waste facility board~~ by this chapter or the rules 25226
adopted under it. 25227

(H)(1) Each person who holds an installation and operation 25228
permit issued under this section and who wishes to obtain a permit 25229
renewal shall submit a completed application for an installation 25230
and operation permit renewal and any necessary accompanying 25231
general plans, detail plans, specifications, and such information 25232
as the director may require to the director no later than one 25233
hundred eighty days prior to the expiration date of the existing 25234
permit or upon a later date prior to the expiration of the 25235
existing permit if the permittee can demonstrate good cause for 25236
the late submittal. The director shall consider the application 25237
and accompanying information, inspection reports of the facility, 25238
results of performance tests, a report regarding the facility's 25239
compliance or noncompliance with the terms and conditions of its 25240
permit and rules adopted by the director under this chapter, and 25241
such other information as is relevant to the operation of the 25242
facility and shall issue a draft renewal permit or a notice of 25243
intent to deny the renewal permit. The director, in accordance 25244
with rules adopted under this section or with rules adopted to 25245
implement Chapter 3745. of the Revised Code, shall give public 25246
notice of the application and draft renewal permit or notice of 25247
intent to deny the renewal permit, provide for the opportunity for 25248
public comments within a specified time period, schedule a public 25249
meeting in the county in which the facility is located if 25250
significant interest is shown, and give public notice of the 25251

public meeting. 25252

(2) Within sixty days after the public meeting or close of 25253
the public comment period, the director, without prior hearing, 25254
shall issue or deny the renewal permit in accordance with Chapter 25255
3745. of the Revised Code. The director shall not issue a renewal 25256
permit unless the director determines that the facility under the 25257
existing permit has a history of compliance with this chapter, 25258
rules adopted under it, the existing permit, or orders entered to 25259
enforce such requirements that demonstrates sufficient 25260
reliability, expertise, and competency to operate the facility 25261
henceforth under this chapter, rules adopted under it, and the 25262
renewal permit. If the director approves an application for a 25263
renewal permit, the director shall issue the permit subject to the 25264
payment of the annual permit fee required under division (E) of 25265
section 3734.02 of the Revised Code and upon such terms and 25266
conditions as the director finds are reasonable to ensure that 25267
continued operation, maintenance, closure, and post-closure care 25268
of the hazardous waste facility are in accordance with the rules 25269
adopted under section 3734.12 of the Revised Code. 25270

(3) An installation and operation permit renewal application 25271
submitted to the director that also contains or would constitute 25272
an application for a modification shall be acted upon by the 25273
director in accordance with division (I) of this section in the 25274
same manner as an application for a modification. In approving or 25275
disapproving the renewal portion of a permit renewal application 25276
containing an application for a modification, the director shall 25277
apply the criteria established under division (H)(2) of this 25278
section. 25279

(4) An application for renewal or modification of a permit 25280
that does not contain an application for a modification as 25281
described in divisions (I)(3)(a) to (d) of this section shall not 25282
be subject to division (D)(2) of this section. 25283

(I)(1) As used in this section, "modification" means a change 25284
or alteration to a hazardous waste facility or its operations that 25285
is inconsistent with or not authorized by its existing permit or 25286
authorization to operate. Modifications shall be classified as 25287
Class 1, 2, or 3 modifications in accordance with rules adopted 25288
under division (K) of this section. Modifications classified as 25289
Class 3 modifications, in accordance with rules adopted under that 25290
division, shall be further classified by the director as either 25291
Class 3 modifications that are to be approved or disapproved by 25292
the ~~hazardous waste facility board as described in~~ director under 25293
divisions (I)(3)(a) to (d) of this section or as Class 3 25294
modifications that are to be approved or disapproved by the 25295
director under division (I)(5) of this section. Not later than 25296
thirty days after receiving a request for a modification under 25297
division (I)(4) of this section that is not listed in Appendix I 25298
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 25299
section, the director shall classify the modification and shall 25300
notify the owner or operator of the facility requesting the 25301
modification of the classification. Notwithstanding any other law 25302
to the contrary, any modification that involves the transfer of a 25303
hazardous waste facility installation and operation permit to a 25304
new owner or operator shall be classified as a Class 3 25305
modification. 25306

(2) Except as provided in section 3734.123 of the Revised 25307
Code, a hazardous waste facility installation and operation permit 25308
may be modified at the request of the director or upon the written 25309
request of the permittee only if any of the following applies: 25310

(a) The permittee desires to accomplish alterations, 25311
additions, or deletions to the permitted facility or to undertake 25312
alterations, additions, deletions, or activities that are 25313
inconsistent with or not authorized by the existing permit; 25314

(b) New information or data justify permit conditions in 25315

addition to or different from those in the existing permit; 25316

(c) The standards, criteria, or rules upon which the existing 25317
permit is based have been changed by new, amended, or rescinded 25318
standards, criteria, or rules, or by judicial decision after the 25319
existing permit was issued, and the change justifies permit 25320
conditions in addition to or different from those in the existing 25321
permit; 25322

(d) The permittee proposes to transfer the permit to another 25323
person. 25324

(3) The director ~~has jurisdiction to~~ shall approve or 25325
disapprove ~~applications~~ an application for ~~Class 1 modifications,~~ 25326
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 25327
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 25328
~~hazardous waste facility board has jurisdiction to approve or~~ 25329
~~disapprove applications for any~~ a modification in accordance with 25330
division (D)(2) of this section and rules adopted under division 25331
(K) of this section for all of the following categories of Class 3 25332
modifications: 25333

(a) Authority to conduct treatment, storage, or disposal at a 25334
site, location, or tract of land that has not been authorized for 25335
the proposed category of treatment, storage, or disposal activity 25336
by the facility's permit; 25337

(b) Modification or addition of a hazardous waste management 25338
unit, as defined in rules adopted under section 3734.12 of the 25339
Revised Code, that results in an increase in a facility's storage 25340
capacity of more than twenty-five per cent over the capacity 25341
authorized by the facility's permit, an increase in a facility's 25342
treatment rate of more than twenty-five per cent over the rate so 25343
authorized, or an increase in a facility's disposal capacity over 25344
the capacity so authorized. The authorized disposal capacity for a 25345
facility shall be calculated from the approved design plans for 25346

the disposal units at that facility. In no case during a five-year 25347
period shall a facility's storage capacity or treatment rate be 25348
modified to increase by more than twenty-five per cent in the 25349
aggregate without ~~board~~ the director's approval in accordance with 25350
division (D)(2) of this section. Notwithstanding any provision of 25351
division (I) of this section to the contrary, a request for 25352
modification of a facility's annual total waste receipt limit 25353
shall be classified and approved or disapproved by the director 25354
under division (I)(5) of this section. 25355

(c) Authority to add any of the following categories of 25356
regulated activities not previously authorized at a facility by 25357
the facility's permit: storage at a facility not previously 25358
authorized to store hazardous waste, treatment at a facility not 25359
previously authorized to treat hazardous waste, or disposal at a 25360
facility not previously authorized to dispose of hazardous waste; 25361
or authority to add a category of hazardous waste management unit 25362
not previously authorized at the facility by the facility's 25363
permit. Notwithstanding any provision of division (I) of this 25364
section to the contrary, a request for authority to add or to 25365
modify an activity or a hazardous waste management unit for the 25366
purposes of performing a corrective action shall be classified and 25367
approved or disapproved by the director under division (I)(5) of 25368
this section. 25369

(d) Authority to treat, store, or dispose of waste types 25370
listed or characterized as reactive or explosive, in rules adopted 25371
under section 3734.12 of the Revised Code, or any acute hazardous 25372
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 25373
previously authorized to treat, store, or dispose of those types 25374
of wastes by the facility's permit unless the requested authority 25375
is limited to wastes that no longer exhibit characteristics 25376
meeting the criteria for listing or characterization as reactive 25377
or explosive wastes, or for listing as acute hazardous waste, but 25378

still are required to carry those waste codes as established in 25379
rules adopted under section 3734.12 of the Revised Code because of 25380
the requirements established in 40 C.F.R. 261(a) and (e), as 25381
amended, that is, the "mixture," "derived-from," or "contained-in" 25382
regulations. 25383

(4) A written request for a modification from the permittee 25384
shall be submitted to the director and shall contain such 25385
information as is necessary to support the request. ~~The director~~ 25386
~~shall transmit to the board requests for Class 3 modifications~~ 25387
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 25388
~~hundred forty days after receiving the requests.~~ Requests for 25389
modifications shall be acted upon by the director ~~or the board, as~~ 25390
~~appropriate,~~ in accordance with this section and rules adopted 25391
under it. 25392

(5) Class 1 modification applications that require prior 25393
approval of the director, as determined in accordance with rules 25394
adopted under division (K) of this section, Class 2 modification 25395
applications, and Class 3 modification applications that are not 25396
described in divisions (I)(3)(a) to (d) of this section shall be 25397
approved or disapproved by the director in accordance with rules 25398
adopted under division (K) of this section. The board of county 25399
commissioners of the county, the board of township trustees of the 25400
township, and the city manager or mayor of the municipal 25401
corporation in which a hazardous waste facility is located shall 25402
receive notification of any application for a modification for 25403
that facility and shall be considered as interested persons with 25404
respect to the director's consideration of the application. 25405

For those modification applications for a transfer of a 25406
permit to a new owner or operator of a facility, the director also 25407
shall determine that, if the transferee owner or operator has been 25408
involved in any prior activity involving the transportation, 25409
treatment, storage, or disposal of hazardous waste, the transferee 25410

owner or operator has a history of compliance with this chapter 25411
and Chapters 3704. and 6111. of the Revised Code and all rules and 25412
standards adopted under them, the "Resource Conservation and 25413
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25414
amended, and all regulations adopted under it, and similar laws 25415
and rules of another state if the transferee owner or operator 25416
owns or operates a facility in that state, that demonstrates 25417
sufficient reliability, expertise, and competency to operate a 25418
hazardous waste facility under this chapter and Chapters 3704. and 25419
6111. of the Revised Code, all rules and standards adopted under 25420
them, and terms and conditions of a hazardous waste facility 25421
installation and operation permit, given the potential for harm to 25422
the public health and safety and the environment that could result 25423
from the irresponsible operation of the facility. A permit may be 25424
transferred to a new owner or operator only pursuant to a Class 3 25425
permit modification. 25426

As used in division (I)(5) of this section: 25427

(a) "Owner" means the person who owns a majority or 25428
controlling interest in a facility. 25429

(b) "Operator" means the person who is responsible for the 25430
overall operation of a facility. 25431

The director shall approve or disapprove an application for a 25432
Class 1 modification that requires the director's approval within 25433
sixty days after receiving the request for modification. The 25434
director shall approve or disapprove an application for a Class 2 25435
modification within three hundred days after receiving the request 25436
for modification. The director shall approve or disapprove an 25437
application for a Class 3 modification ~~that is not described in~~ 25438
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 25439
sixty-five days after receiving the request for modification. 25440

(6) The approval or disapproval by the director of a Class 1 25441

modification application is not a final action that is appealable 25442
under Chapter 3745. of the Revised Code. The approval or 25443
disapproval by the director of a Class 2 modification or a Class 3 25444
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 25445
~~of this section~~ is a final action that is appealable under that 25446
chapter. In approving or disapproving a request for a 25447
modification, the director shall consider all comments pertaining 25448
to the request that are received during the public comment period 25449
and the public meetings. The administrative record for appeal of a 25450
final action by the director in approving or disapproving a 25451
request for a modification shall include all comments received 25452
during the public comment period relating to the request for 25453
modification, written materials submitted at the public meetings 25454
relating to the request, and any other documents related to the 25455
director's action. 25456

~~(7) The hazardous waste facility board shall approve or 25457
disapprove an application for a Class 3 modification transmitted 25458
to it under division (I)(4) of this section, or that portion of a 25459
permit renewal application that constitutes a Class 3 modification 25460
application so transmitted, of a hazardous waste facility 25461
installation and operation permit in accordance with division (D) 25462
of this section. No other request for a modification shall be 25463
subject to division (D)(6) of this section. No aspect of a 25464
permitted facility or its operations that is not being modified as 25465
described in division (I)(3)(a), (b), (c), or (d) of this section 25466
shall be subject to review by the board under division (D) of this 25467
section. 25468~~

~~(8)~~ Notwithstanding any other provision of law to the 25469
contrary, a change or alteration to a hazardous waste facility 25470
described in division (E)(3)(a) or (b) of section 3734.02 of the 25471
Revised Code, or its operations, is a modification for the 25472
purposes of this section. An application for a modification at 25473

such a facility shall be submitted, classified, and approved or 25474
disapproved in accordance with divisions (I)(1) to ~~(7)~~(6) of this 25475
section in the same manner as a modification to a hazardous waste 25476
facility installation and operation permit. 25477

(J)(1) Except as provided in division (J)(2) of this section, 25478
an owner or operator of a hazardous waste facility that is 25479
operating in accordance with a permit by rule under rules adopted 25480
by the director under division (E)(3)(b) of section 3734.02 of the 25481
Revised Code shall submit either a hazardous waste facility 25482
installation and operation permit application for the facility or 25483
a modification application, whichever is required under division 25484
(J)(1)(a) or (b) of this section, within one hundred eighty days 25485
after the director has requested the application or upon a later 25486
date if the owner or operator demonstrates to the director good 25487
cause for the late submittal. 25488

(a) If the owner or operator does not have a hazardous waste 25489
facility installation and operation permit for any hazardous waste 25490
treatment, storage, or disposal activities at the facility, the 25491
owner or operator shall submit an application for such a permit to 25492
the director for the activities authorized by the permit by rule. 25493
Notwithstanding any other provision of law to the contrary, the 25494
director shall approve or disapprove the application for the 25495
permit in accordance with the procedures governing the approval or 25496
disapproval of permit renewals under division (H) of this section. 25497

(b) If the owner or operator has a hazardous waste facility 25498
installation and operation permit for hazardous waste treatment, 25499
storage, or disposal activities at the facility other than those 25500
authorized by the permit by rule, the owner or operator shall 25501
submit to the director a request for modification in accordance 25502
with division (I) of this section. Notwithstanding any other 25503
provision of law to the contrary, the director shall approve or 25504
disapprove the modification application in accordance with ~~rules~~ 25505

~~adopted under~~ division ~~(K)~~(I)(5) of this section. 25506

(2) The owner or operator of a boiler or industrial furnace 25507
that is conducting thermal treatment activities in accordance with 25508
a permit by rule under rules adopted by the director under 25509
division (E)(3)(b) of section 3734.02 of the Revised Code shall 25510
submit a hazardous waste facility installation and operation 25511
permit application if the owner or operator does not have such a 25512
permit for any hazardous waste treatment, storage, or disposal 25513
activities at the facility or, if the owner or operator has such a 25514
permit for hazardous waste treatment, storage, or disposal 25515
activities at the facility other than thermal treatment activities 25516
authorized by the permit by rule, a modification application to 25517
add those activities authorized by the permit by rule, whichever 25518
is applicable, within one hundred eighty days after the director 25519
has requested the submission of the application or upon a later 25520
date if the owner or operator demonstrates to the director good 25521
cause for the late submittal. The application shall be accompanied 25522
by information necessary to support the request. The ~~hazardous~~ 25523
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 25524
application for a hazardous waste facility installation and 25525
operation permit in accordance with division (D) of this section 25526
and approve or disapprove an application for a modification in 25527
accordance with division (I)(3) of this section, except that the 25528
~~board~~ director shall not disapprove an application for the thermal 25529
treatment activities on the basis of the criteria set forth in 25530
division (D)~~(6)~~(2)(g) or (h) of this section. 25531

(3) As used in division (J) of this section: 25532

(a) "Modification application" means a request for a 25533
modification submitted in accordance with division (I) of this 25534
section. 25535

(b) "Thermal treatment," "boiler," and "industrial furnace" 25536
have the same meanings as in rules adopted under section 3734.12 25537

of the Revised Code. 25538

(K) The director shall adopt, and may amend, suspend, or 25539
rescind, rules in accordance with Chapter 119. of the Revised Code 25540
in order to implement divisions (H) and (I) of this section. 25541
Except when in actual conflict with this section, rules governing 25542
the classification of and procedures for the modification of 25543
hazardous waste facility installation and operation permits shall 25544
be substantively and procedurally identical to the regulations 25545
governing hazardous waste facility permitting and permit 25546
modifications adopted under the "Resource Conservation and 25547
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25548
amended. 25549

Sec. 3734.12. The director of environmental protection shall 25550
adopt and may amend, suspend, and rescind rules in accordance with 25551
Chapter 119. of the Revised Code, which shall be consistent with 25552
and equivalent to the regulations adopted under the "Resource 25553
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 25554
6921, as amended, except for rules adopted under divisions (D) and 25555
(F) of this section governing solid waste facilities and except as 25556
otherwise provided in this chapter, doing all of the following: 25557

(A) Adopting the criteria and procedures established under 25558
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 25559
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 25560
waste. The director shall prepare, revise when appropriate, and 25561
publish a list of substances or categories of substances 25562
identified to be hazardous using the criteria specified in 40 25563
C.F.R. 261, as amended, which shall be composed of at least those 25564
substances identified as hazardous pursuant to section 3001(B) of 25565
that act. The director shall not list any waste that the 25566
administrator of the United States environmental protection agency 25567
delisted or excluded by an amendment to the federal regulations, 25568

any waste that the administrator declined to list by publishing a 25569
denial of a rulemaking petition or by withdrawal of a proposed 25570
listing in the United States federal register after May 18, 1980, 25571
or any waste oil or polychlorinated biphenyl not listed by the 25572
administrator. 25573

(B) Establishing standards for generators of hazardous waste 25574
necessary to protect human health or safety or the environment in 25575
accordance with this chapter, including, but not limited to, 25576
requirements respecting all of the following: 25577

(1) Record-keeping practices that accurately identify the 25578
quantities of hazardous waste generated, the constituents that are 25579
significant in quantity or in potential harm to human health or 25580
safety or the environment, and the disposition of the waste; 25581

(2) Labeling of containers used for storage, transportation, 25582
or disposal of hazardous waste to identify the waste accurately; 25583

(3) Use of appropriate containers for hazardous waste; 25584

(4) Providing information on the general chemical composition 25585
of hazardous waste to persons transporting, treating, storing, or 25586
disposing of the waste; 25587

(5) A manifest system requiring a manifest consistent with 25588
that prescribed under the "Resource Conservation and Recovery Act 25589
of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a 25590
manifest for any hazardous waste transported off the premises 25591
where generated and assuring that all hazardous waste that is 25592
transported off the premises where generated is designated for 25593
treatment, storage, or disposal in facilities for which a permit 25594
has been issued or in the other facilities specified in division 25595
(F) of section 3734.02 of the Revised Code; 25596

(6) Submission of such reports to the director as the 25597
director determines necessary; 25598

(7) Establishment of quality control and testing procedures	25599
that ensure compliance with the rules adopted under this section;	25600
(8) Obtainment of a United States environmental protection	25601
agency identification number.	25602
(C) Establishing standards for transporters of hazardous	25603
waste necessary to protect human health or safety or the	25604
environment in accordance with this chapter, including, but not	25605
limited to, requirements respecting all of the following:	25606
(1) Record-keeping concerning hazardous waste transported,	25607
including source and delivery points;	25608
(2) Submission of such reports to the director as the	25609
director determines necessary;	25610
(3) Transportation of only properly labeled waste;	25611
(4) Compliance with the manifest system required by division	25612
(B) of this section;	25613
(5) Transportation of hazardous waste only to the treatment,	25614
storage, or disposal facility that the shipper designates on the	25615
manifest to be a facility holding a permit or another facility	25616
specified in division (F) of section 3734.02 of the Revised Code;	25617
(6) Contingency plans to minimize unanticipated damage from	25618
transportation of hazardous waste;	25619
(7) Financial responsibility, including, but not limited to,	25620
provisions requiring a financial mechanism to cover the costs of	25621
spill cleanup and liability for sudden accidental occurrences that	25622
result in damage to persons, property, or the environment;	25623
(8) Obtainment of a United States environmental protection	25624
agency identification number.	25625
In the case of any hazardous waste that is subject to the	25626
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49	25627

U.S.C.A. 1801, as amended, the rules shall be consistent with that 25628
act and regulations adopted under it. 25629

(D) Establishing performance standards for owners and 25630
operators of hazardous waste facilities and owners and operators 25631
of solid waste facilities, necessary to protect human health or 25632
safety or the environment in accordance with this chapter, 25633
including, but not limited to, requirements respecting all of the 25634
following: 25635

(1) Maintaining records of all hazardous waste that is 25636
treated, stored, or disposed of and of the manner in which the 25637
waste was treated, stored, or disposed of or records of all solid 25638
wastes transferred or disposed of and of the manner in which the 25639
wastes were disposed of; 25640

(2) Submission of such reports to the director as the 25641
director determines necessary; 25642

(3) Reporting, monitoring, inspection, and, except with 25643
respect to solid waste facilities, compliance with the manifest 25644
system referred to in division (B) of this section; 25645

(4) Treatment, storage, or disposal of all hazardous waste 25646
received by methods, techniques, and practices approved by the 25647
director and disposal or transfer of all solid wastes received by 25648
methods, techniques, and practices approved by the director; 25649

(5) Location, design, and construction of hazardous waste 25650
facilities and location, design, and construction of solid waste 25651
facilities; 25652

(6) Contingency plans for effective action to minimize 25653
unanticipated damage from treatment, storage, or disposal of 25654
hazardous waste and the disposal or transfer of solid wastes; 25655

(7) Ownership, continuity of operation, training for 25656
personnel, and financial responsibility, including the filing of 25657

closure and post-closure financial assurance, if applicable. No 25658
private entity shall be precluded by reason of these requirements 25659
from the ownership or operation of facilities providing hazardous 25660
waste treatment, storage, or disposal services if the entity can 25661
provide assurances of financial responsibility and continuity of 25662
operation consistent with the degree and duration of risks 25663
associated with the treatment, storage, or disposal of specified 25664
hazardous waste. 25665

(8) Closure and post-closure care of a hazardous waste 25666
facility where hazardous waste will no longer be treated, stored, 25667
or disposed of and of a solid waste facility where solid wastes 25668
will no longer be disposed of or transferred; 25669

(9) Establishment of quality control and testing procedures 25670
that ensure compliance with the rules adopted under this section; 25671

(10) Obtainment of a United States environmental protection 25672
agency identification number for each hazardous waste treatment, 25673
storage, or disposal facility; 25674

(11) Trial burns and land treatment demonstrations. 25675

The rules adopted under divisions (D) and (F) of this section 25676
pertaining to solid waste facilities do not apply to scrap tire 25677
collection, storage, monocell, monofill, and recovery facilities. 25678
Those facilities are subject to and governed by rules adopted 25679
under sections 3734.70 to 3734.73 of the Revised Code, as 25680
applicable. 25681

(E) Governing the issuance, modification, revocation, 25682
suspension, withdrawal, and denial of installation and operation 25683
permits, draft permits, and transportation certificates of 25684
registration; 25685

(F) Specifying information required to be included in 25686
applications for hazardous waste facility installation and 25687
operation permits and solid waste permits, including, but not 25688

limited to, detail plans, specifications, and information	25689
respecting all of the following:	25690
(1) The composition, quantities, and concentrations of	25691
hazardous waste and solid wastes to be stored, treated,	25692
transported, or disposed of and such other information as the	25693
director may require regarding the method of operation;	25694
(2) The facility to which the waste will be transported or	25695
where it will be stored, treated, or disposed of;	25696
(3) The closure and post-closure care of a facility where	25697
hazardous waste will no longer be treated, stored, or disposed of	25698
and of a solid waste facility where solid wastes will no longer be	25699
disposed of or transferred.	25700
(G) Establishing procedures ensuring that all information	25701
entitled to protection as trade secrets disclosed to the director	25702
or the director's authorized representative is not disclosed	25703
without the consent of the owner, except that such information may	25704
be disclosed, upon request, to authorized representatives of the	25705
United States environmental protection agency, or as required by	25706
law. As used in this section, "trade secrets" means any formula,	25707
plan, pattern, process, tool, mechanism, compound, procedure,	25708
production date, or compilation of information that is not	25709
patented, that is known only to certain individuals within a	25710
commercial concern who are using it to fabricate, produce, or	25711
compound an article, trade, or service having commercial value,	25712
and that gives its user an opportunity to obtain a business	25713
advantage over competitors who do not know or use it.	25714
(H) Prohibiting the disposal of specified hazardous wastes in	25715
this state if the director has determined both of the following:	25716
(1) The potential impacts on human health or safety or the	25717
environment are such that disposal of those wastes should not be	25718
allowed+.	25719

(2) A technically feasible and environmentally sound 25720
alternative is reasonably available, either within or outside this 25721
state, for processing, recycling, fixation of, neutralization of, 25722
or other treatment of those wastes. Such reasonable availability 25723
shall not be determined without a consideration of the costs to 25724
the generator of implementing the alternatives. 25725

The director shall adopt, and may amend, suspend, or rescind, 25726
rules to specify hazardous wastes that shall not be disposed of in 25727
accordance with this division. Nothing in this division, either 25728
prior to or after adoption of those rules, shall preclude the 25729
director ~~or the hazardous waste facility board created in section~~ 25730
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 25731
specified hazardous wastes at particular facilities under the 25732
terms or conditions of a permit or ~~preclude the director from~~ 25733
~~prohibiting that disposal~~ by order. 25734

(I)(1)(a) Governing the following that may be more stringent 25735
than the regulations adopted under the "Resource Conservation and 25736
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25737
amended, when the director determines that such more stringent 25738
rules are reasonable in order to protect human health or safety or 25739
the environment: 25740

(i) Specific wastes that the director determines, because of 25741
their physical, chemical, or biological characteristics, are so 25742
extremely hazardous that the storage, treatment, or disposal of 25743
the wastes in compliance with those regulations would present an 25744
imminent danger to human health or safety or the environment; 25745

(ii) The use of only properly designed, operated, and 25746
approved transfer facilities; 25747

(iii) Preventing illegitimate activities relating to the 25748
reuse, recycling, or reclaiming of hazardous waste, including 25749
record-keeping, reporting, and manifest requirements. 25750

(b) In adopting such more stringent rules, the director shall 25751
give consideration to and base the rules on evidence concerning 25752
factors including, but not limited to, the following insofar as 25753
pertinent: 25754

(i) Geography of the state; 25755

(ii) Geology of the state; 25756

(iii) Hydrogeology of the state; 25757

(iv) Climate of the state; 25758

(v) Engineering and technical feasibility; 25759

(vi) Availability of alternative technologies or methods of 25760
storage, treatment, or disposal. 25761

(2) The director may require from generators and transporters 25762
of hazardous waste and from owners or operators of treatment, 25763
storage, or disposal facilities, the submission of reports in 25764
addition to those required under regulations adopted under the 25765
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 25766
42 U.S.C.A. 6921, as amended, to the extent that such reports 25767
contain information that the generator, transporter, or facility 25768
owner or operator is required to obtain in order to comply with 25769
the regulations adopted by the administrator of the United States 25770
environmental protection agency under the "Resource Conservation 25771
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25772
amended, or to the extent that such reports are required by the 25773
director to meet the requirements of division (B)(7), (D)(9), or 25774
(H) of this section or section 3734.121 of the Revised Code. 25775

(J) Governing the storage, treatment, or disposal of 25776
hazardous waste in, and the permitting, design, construction, 25777
operation, monitoring, inspection, closure, and post-closure care 25778
of, hazardous waste underground injection wells, surface 25779
impoundments, waste piles other than those composed of materials 25780

removed from the ground as part of coal or mineral extraction or 25781
cleaning processes, land treatment facilities, thermal treatment 25782
facilities, and landfills that may be more stringent than the 25783
regulations adopted under the "Resource Conservation and Recovery 25784
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 25785
whenever the director reasonably determines that federal 25786
regulations will not adequately protect the public health or 25787
safety or the environment of this state with respect to the 25788
subject matter of the more stringent rules. Such more stringent 25789
rules shall be developed to achieve a degree of protection, as 25790
determined by the director, consistent with the degree of hazard 25791
potentially posed by the various wastes or categories of wastes to 25792
be treated, stored, or disposed of and the types of facilities at 25793
which they are to be treated, stored, or disposed of. In adopting 25794
such more stringent rules, the director shall give consideration 25795
to and base the rules on evidence concerning factors including, 25796
but not limited to, the following insofar as pertinent: 25797

- (1) Geography of the state; 25798
- (2) Geology of the state; 25799
- (3) Hydrogeology of the state; 25800
- (4) Climate of the state; 25801
- (5) Engineering and technical feasibility; 25802
- (6) Availability of alternative technologies or methods of 25803
storage, treatment, or disposal. 25804

(K) Establishing performance standards and other requirements 25805
necessary to protect public health and the environment from 25806
hazards associated with used oil, including, without limitation, 25807
standards and requirements respecting all of the following: 25808

- (1) Material that is subject to regulation as used oil; 25809
- (2) Generation of used oil; 25810

- (3) Used oil collection centers and aggregation points; 25811
- (4) Transportation of used oil; 25812
- (5) Processing and re-refining of used oil; 25813
- (6) Burning of used oil; 25814
- (7) Marketing of used oil; 25815
- (8) Disposal of used oil; 25816
- (9) Use of used oil as a dust suppressant. 25817

Sec. 3734.123. (A) As used in this section and section 25818
3734.124 of the Revised Code, "commercial hazardous waste 25819
incinerator" means an enclosed device that treats hazardous waste 25820
by means of controlled flame combustion and that accepts for 25821
treatment hazardous waste that is generated off the premises on 25822
which the device is located by any person other than the one who 25823
owns or operates the device or one who controls, is controlled by, 25824
or is under common control with the person who owns or operates 25825
the device. "Commercial hazardous waste incinerator" does not 25826
include any "boiler" or "industrial furnace" as those terms are 25827
defined in rules adopted under section 3734.12 of the Revised 25828
Code. 25829

(B) Not sooner than three years after April 15, 1993, and 25830
triennially thereafter, the director of environmental protection 25831
shall prepare, publish, and issue as a final action an assessment 25832
of commercial hazardous waste incinerator capacity in this state. 25833
However, after the issuance as a final action of a determination 25834
under division (A) of section 3734.124 of the Revised Code that 25835
terminates the restrictions established in division (C) of this 25836
section, the director shall cease preparing, publishing, and 25837
issuing the periodic assessments required under this division. The 25838
assessment shall determine the amount of commercial hazardous 25839
waste incinerator capacity needed to manage the hazardous waste 25840

expected to be generated in this state and imported into this 25841
state for incineration at commercial hazardous waste incinerators 25842
during the next succeeding twenty calendar years. The assessment 25843
shall include at least all of the following: 25844

(1) A determination of the aggregate treatment capacity 25845
authorized at commercial hazardous waste incinerators located in 25846
this state; 25847

(2) A determination of the quantity of hazardous waste 25848
generated in this state that is being treated at commercial 25849
hazardous waste incinerators located in this state and projections 25850
of the quantity of hazardous waste generated in this state that 25851
will be treated at those facilities; 25852

(3) A determination of the quantity of hazardous waste 25853
generated outside this state that is being treated at commercial 25854
hazardous waste incinerators located in this state and projections 25855
of the quantity of hazardous waste generated outside this state 25856
that will be treated at those facilities; 25857

(4) A determination of the quantity of hazardous waste 25858
generated in this state that is being treated at commercial 25859
hazardous waste incinerators located outside this state, and 25860
projections of the quantity of hazardous waste generated in this 25861
state that will be treated at those facilities; 25862

(5) The amount of commercial hazardous waste incinerator 25863
capacity that the director reasonably anticipates will be needed 25864
during the first three years of the planning period to treat 25865
hazardous waste generated from the remediation of sites in this 25866
state that are on the national priority list required under the 25867
"Comprehensive Environmental Response, Compensation, and Liability 25868
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 25869
result of corrective actions implemented under the "Resource 25870
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 25871

6921, as amended; and as a result of clean-up activities conducted 25872
at sites listed on the master sites list prepared by the 25873
environmental protection agency; 25874

(6) Based upon available data, provided that the data are 25875
reliable and are compatible with the data base of the 25876
environmental protection agency, an identification of any 25877
hazardous waste first listed as a hazardous waste in regulations 25878
adopted under the "Resource Conservation and Recovery Act of 25879
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 25880
April 15, 1993, and of any hazardous waste that has been proposed 25881
for such listing by publication of a notice in the federal 25882
register on or before December 1 of the year immediately preceding 25883
the triennial assessment; 25884

(7) An analysis of other factors that may result in capacity 25885
changes over the period addressed by the assessment. 25886

(C) Except as otherwise provided in section 3734.124 of the 25887
Revised Code, none of the following shall occur on or after April 25888
15, 1993: 25889

(1) The director shall not do any of the following: 25890

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 25891
of the Revised Code, as applicable, transmit to the hazardous 25892
waste facility board created in that section any application for a 25893
Issue any hazardous waste facility installation and operation 25894
permit under division (D) of section 3745.05 of the Revised Code 25895
for the establishment of a new commercial hazardous waste 25896
incinerator, or any request for a modification, as described in 25897
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 25898
of an existing commercial hazardous waste incinerator to increase 25899
either the treatment capacity of the incinerator or the quantity 25900
of hazardous waste authorized to be treated by it, for which the 25901
staff of the environmental protection agency has made a 25902~~

~~preliminary determination as to whether the application or request~~ 25903
~~appears to comply with the rules and standards set forth under~~ 25904
~~divisions (D), (I), and (J) of section 3734.12 of the Revised~~ 25905
~~Code;~~ 25906

~~(b)~~ Issue issue any modified hazardous waste facility 25907
installation and operation permit under division (I)~~(5)~~ of that 25908
section ~~3734.05 of the Revised Code~~ that would authorize an 25909
increase in either the treatment capacity of a commercial 25910
hazardous waste incinerator or the quantity of hazardous waste 25911
authorized to be treated by it; 25912

~~(e)~~(b) Issue any permit pursuant to rules adopted under 25913
division (F) of section 3704.03 of the Revised Code, division (J) 25914
of section 6111.03 of the Revised Code, or the solid waste 25915
provisions of this chapter and rules adopted under those 25916
provisions, that is necessary for the establishment, modification, 25917
or operation of any appurtenant facility or equipment that is 25918
necessary for the operation of a new commercial hazardous waste 25919
incinerator, or the modification of such an existing incinerator 25920
to increase either the treatment capacity of the incinerator or 25921
the quantity of hazardous waste that is authorized to be treated 25922
by it. Upon determining that an application for any permit 25923
pertains to the establishment, modification, or operation of any 25924
appurtenant facility or equipment, the director shall cease 25925
reviewing the application and return the application and 25926
accompanying materials to the applicant along with a written 25927
notice that division (C)(1)~~(e)~~(b) of this section precludes the 25928
director from reviewing and acting upon the application. 25929

~~(d)~~(c) Issue any exemption order under division (G) of 25930
section 3734.02 of the Revised Code exempting the establishment of 25931
a new commercial hazardous waste incinerator; the modification of 25932
an existing facility to increase either the treatment capacity of 25933
the incinerator or the quantity of hazardous waste that is 25934

authorized to be treated by it; or the establishment, 25935
modification, or operation of any facility or equipment 25936
appurtenant to a new or modified commercial hazardous waste 25937
incinerator, from divisions (C)(1)(a) ~~or (b) or (c)~~ or (C)(2) ~~or~~ 25938
~~(3)~~ of this section. 25939

(2) ~~The staff of the environmental protection agency shall~~ 25940
~~not take any action under division (D)(3) of section 3734.05 of~~ 25941
~~the Revised Code to review, or to make a preliminary determination~~ 25942
~~of compliance with the rules and standards set forth in divisions~~ 25943
~~(D), (I), and (J) of section 3734.12 of the Revised Code~~ 25944
~~regarding, any~~ If the director determines that an application for 25945
a hazardous waste facility installation and operation permit 25946
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 25947
Code ~~that~~ pertains to the establishment of a new commercial 25948
hazardous waste incinerator, or ~~any~~ a request for a modification 25949
of an existing incinerator submitted under division (I)~~(4)~~ of that 25950
section ~~to modify an existing incinerator~~ pertains to an increase 25951
of either the treatment capacity of the incinerator or the 25952
quantity of hazardous waste that is authorized to be treated by 25953
it. ~~Upon determining that an application or request submitted~~ 25954
~~under those divisions pertains to the establishment of a new~~ 25955
~~commercial hazardous waste incinerator or the modification of an~~ 25956
~~existing incinerator, the staff of the agency~~ director shall cease 25957
reviewing the application or request and shall return it and the 25958
accompanying materials to the applicant along with a written 25959
notice that division (C)(2) of this section precludes the ~~staff~~ 25960
~~from reviewing or making any preliminary determination of~~ 25961
~~compliance regarding~~ review of the application or request. 25962

~~(3) The hazardous waste facility board created in section~~ 25963
~~3734.05 of the Revised Code shall not do either of the following:~~ 25964

~~(a) Approve any application for a hazardous waste facility~~ 25965
~~installation and operation permit, or issue any permit, under~~ 25966

~~divisions (D) and (F) of section 3734.05 of the Revised Code that 25967
authorizes the establishment and operation of a new commercial 25968
hazardous waste incinerator; 25969~~

~~(b) Approve any request to modify an existing commercial 25970
hazardous waste incinerator under divisions (D) and (I)(7) of 25971
section 3734.05 of the Revised Code that authorizes an increase in 25972
either the treatment capacity of the incinerator or the quantity 25973
of hazardous waste authorized to be treated by it. 25974~~

Sec. 3734.124. (A) Promptly after issuing a periodic 25975
assessment under division (B) of section 3734.123 of the Revised 25976
Code, the director of environmental protection shall make a 25977
determination as to whether it is necessary or appropriate to 25978
continue the restrictions established in division (C) of section 25979
3734.123 of the Revised Code during the period of time between the 25980
issuance of the assessment and the issuance of the next succeeding 25981
periodic assessment or as to whether it is necessary or 25982
appropriate to terminate the restrictions. The director shall 25983
consider all of the following when making a determination under 25984
this division: 25985

(1) The findings of the assessment; 25986

(2) The findings of an evaluation conducted by the director, 25987
in consultation with the chairperson of the state emergency 25988
response commission created in section 3750.02 of the Revised 25989
Code, regarding the capability of this state to respond to the 25990
types and frequencies of releases of hazardous waste that are 25991
likely to occur at commercial hazardous waste incinerators; 25992

(3) The effect that a new commercial hazardous waste 25993
incinerator may have on ambient air quality in this state; 25994

(4) The findings of a review of relevant information 25995
regarding the impacts of commercial hazardous waste incinerators 25996

on human health and the environment, such as health studies and 25997
risk assessments; 25998

(5) The findings of a review of the operational records of 25999
commercial hazardous waste incinerators operating in this state; 26000

(6) The findings of any review of relevant information 26001
concerning the following: 26002

(a) The cost of and access to commercial hazardous waste 26003
incinerator capacity; 26004

(b) The length of time and the regulatory review process 26005
necessary to fully permit a commercial hazardous waste 26006
incinerator; 26007

(c) Access to long-term capital investment to fund the 26008
building of a commercial hazardous waste incinerator in this 26009
state; 26010

(d) Efforts by generators of hazardous waste accepted by 26011
commercial hazardous waste incinerators to reduce the amount of 26012
hazardous waste that they generate. 26013

(7) Regulatory and legislative concerns that may include, 26014
without limitation, the provisions of paragraphs (a) and (b) of 40 26015
C.F.R. 271.4, as they existed on April 15, 1993. 26016

If, after considering all of the information and concerns 26017
that the director is required to consider under divisions (A)(1) 26018
to (7) of this section, the director determines that it is 26019
necessary or appropriate to terminate the restrictions established 26020
in division (C) of section 3734.123 of the Revised Code in order 26021
to protect human health or safety or the environment, the director 26022
shall issue as a final action a written determination to that 26023
effect. If the director determines that it is necessary or 26024
appropriate for those purposes to continue the restrictions until 26025
the issuance of the next succeeding periodic assessment under 26026

division (B) of section 3734.123 of the Revised Code, the director 26027
shall issue as a final action a written determination to that 26028
effect. After the issuance as a final action of a determination 26029
under this division that it is necessary or appropriate to 26030
terminate the restrictions established in division (C) of section 26031
3734.123 of the Revised Code, the director shall cease making the 26032
periodic determinations required under this division. 26033

(B) Beginning three years after April 15, 1993, but only on 26034
and after the date of issuance as final actions of an assessment 26035
under division (B) of section 3734.123 of the Revised Code and a 26036
determination under division (A) of this section that it is 26037
necessary or appropriate to terminate the restrictions established 26038
in division (C) of section 3734.123 of the Revised Code, ~~any of~~ 26039
~~the following may occur:~~ 26040

~~(1) The the director may do any of the following:~~ 26041

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 26042
of the Revised Code, as applicable, transmit to the hazardous 26043
waste facility board created in that section an application for a 26044
hazardous waste facility installation and operation permit that 26045
pertains to the establishment of a new commercial hazardous waste 26046
incinerator, or a request for a modification, as described in 26047
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 26048
of a commercial hazardous waste incinerator to increase either the 26049
treatment capacity of the incinerator or the quantity of hazardous 26050
waste authorized to be treated by it, for which the staff of the 26051
environmental protection agency has made a preliminary 26052
determination as to whether the application or request appears to 26053
comply with the rules and standards set forth under divisions (D), 26054
(I), and (K) of section 3734.05 of the Revised Code;~~ 26055

~~(b) To the extent otherwise authorized in division (I)(5) of 26056
section 3734.05 of the Revised Code, issue a modified hazardous 26057
waste facility installation and operation permit under that 26058~~

~~division that authorizes an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;~~ 26059
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~~(e)(1)~~ To the extent otherwise authorized thereunder, issue any permit pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it; 26062
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~~(d)(2)~~ To the extent otherwise authorized in division (G) of section 3734.02 of the Revised Code, issue an order exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from division (C)(1)(a), or (b), ~~or (c)~~ or (C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code; 26073
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~~(2) The staff of the environmental protection agency may do both of the following:~~ 26083
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~~(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~~ 26085
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be treated by it; 26091

~~(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.~~ 26092
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~~(3) The hazardous waste facility board may do both of the following:~~ 26101
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~~(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;~~ 26103
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~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 26107
(4) Approve or disapprove under division (I) of section 3734.05 of the Revised Code a request to modify the permit of an existing 26108
commercial hazardous waste incinerator to increase either the 26109
treatment capacity of the incinerator or the quantity of hazardous 26110
waste authorized to be treated by it. 26111
26112

Sec. 3734.18. (A) There are hereby levied fees on the 26113
disposal of hazardous waste to be collected according to the 26114
following schedule at each disposal facility to which ~~the~~ 26115
~~hazardous waste facility board has issued~~ a hazardous waste 26116
facility installation and operation permit or ~~the director of~~ 26117
~~environmental protection has issued a renewal of a permit pursuant~~ 26118
~~to section 3734.05 of the Revised Code~~ has been issued under this 26119
chapter: 26120

(1) For disposal facilities that are off-site facilities as 26121
defined in division (E) of section 3734.02 of the Revised Code, 26122
fees shall be levied at the rate of four dollars and fifty cents 26123
per ton for hazardous waste disposed of by deep well injection and 26124
nine dollars per ton for hazardous waste disposed of by land 26125
application or landfilling. The owner or operator of the facility, 26126
as a trustee for the state, shall collect the fees and forward 26127
them to the director in accordance with rules adopted under this 26128
section. 26129

(2) For disposal facilities that are on-site or satellite 26130
facilities, as defined in division (E) of section 3734.02 of the 26131
Revised Code, fees shall be levied at the rate of two dollars per 26132
ton for hazardous waste disposed of by deep well injection and 26133
four dollars per ton for hazardous waste disposed of by land 26134
application or landfilling. The maximum annual disposal fee for an 26135
on-site disposal facility that disposes of one hundred thousand 26136
tons or less of hazardous waste in a year is twenty-five thousand 26137
dollars. The maximum annual disposal fee for an on-site facility 26138
that disposes of more than one hundred thousand tons of hazardous 26139
waste in a year by land application or landfilling is fifty 26140
thousand dollars, and the maximum annual fee for an on-site 26141
facility that disposes of more than one hundred thousand tons of 26142
hazardous waste in a year by deep well injection is one hundred 26143
thousand dollars. The maximum annual disposal fee for a satellite 26144
facility that disposes of one hundred thousand tons or less of 26145
hazardous waste in a year is thirty-seven thousand five hundred 26146
dollars, and the maximum annual disposal fee for a satellite 26147
facility that disposes of more than one hundred thousand tons of 26148
hazardous waste in a year is seventy-five thousand dollars, except 26149
that a satellite facility defined under division (E)(3)(b) of 26150
section 3734.02 of the Revised Code that receives hazardous waste 26151
from a single generation site is subject to the same maximum 26152

annual disposal fees as an on-site disposal facility. The owner or 26153
operator shall pay the fee to the director each year upon the 26154
anniversary of the date of issuance of the owner's or operator's 26155
installation and operation permit during the term of that permit 26156
and any renewal permit issued under division (H) of section 26157
3734.05 of the Revised Code. If payment is late, the owner or 26158
operator shall pay an additional ten per cent of the amount of the 26159
fee for each month that it is late. 26160

(B) There are hereby levied fees at the rate of two dollars 26161
per ton on hazardous waste that is treated at treatment facilities 26162
that are not on-site or satellite facilities, as defined in 26163
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 26164
~~hazardous waste facility board has issued~~ a hazardous waste 26165
facility installation and operation permit or ~~the director~~ renewal 26166
of a permit has been issued ~~a renewal permit under this chapter,~~ 26167
or that are not subject to the hazardous waste facility 26168
installation and operation permit requirements under rules adopted 26169
by the director. 26170

(C) There are hereby levied additional fees on the treatment 26171
and disposal of hazardous waste at the rate of ten per cent of the 26172
applicable fees prescribed in division (A) or (B) of this section 26173
for the purposes of paying the costs of municipal corporations and 26174
counties for conducting reviews of applications for hazardous 26175
waste facility installation and operation permits for proposed new 26176
or modified hazardous waste landfills within their boundaries, 26177
emergency response actions with respect to releases of hazardous 26178
waste from hazardous waste facilities within their boundaries, 26179
monitoring the operation of such hazardous waste facilities, and 26180
local waste management planning programs. The owner or operator of 26181
a facility located within a municipal corporation, as a trustee 26182
for the municipal corporation, shall collect the fees levied by 26183
this division and forward them to the treasurer of the municipal 26184

corporation or such officer as, by virtue of the charter, has the 26185
duties of the treasurer in accordance with rules adopted under 26186
this section. The owner or operator of a facility located in an 26187
unincorporated area, as a trustee of the county in which the 26188
facility is located, shall collect the fees levied by this 26189
division and forward them to the county treasurer of that county 26190
in accordance with rules adopted under this section. The owner or 26191
operator shall pay the fees levied by this division to the 26192
treasurer or such other officer of the municipal corporation or to 26193
the county treasurer each year upon the anniversary of the date of 26194
issuance of the owner's or operator's installation and operation 26195
permit during the term of that permit and any renewal permit 26196
issued under division (H) of section 3734.05 of the Revised Code. 26197
If payment is late, the owner or operator shall pay an additional 26198
ten per cent of the amount of the fee for each month that the 26199
payment is late. 26200

Moneys received by a municipal corporation under this 26201
division shall be paid into a special fund of the municipal 26202
corporation and used exclusively for the purposes of conducting 26203
reviews of applications for hazardous waste facility installation 26204
and operation permits for new or modified hazardous waste 26205
landfills located or proposed within the municipal corporation, 26206
conducting emergency response actions with respect to releases of 26207
hazardous waste from facilities located within the municipal 26208
corporation, monitoring operation of such hazardous waste 26209
facilities, and conducting waste management planning programs 26210
within the municipal corporation through employees of the 26211
municipal corporation or pursuant to contracts entered into with 26212
persons or political subdivisions. Moneys received by a board of 26213
county commissioners under this division shall be paid into a 26214
special fund of the county and used exclusively for those purposes 26215
within the unincorporated area of the county through employees of 26216
the county or pursuant to contracts entered into with persons or 26217

political subdivisions. 26218

(D) As used in this section, "treatment" or "treated" does 26219
not include any method, technique, or process designed to recover 26220
energy or material resources from the waste or to render the waste 26221
amenable for recovery. The fees levied by division (B) of this 26222
section do not apply to hazardous waste that is treated and 26223
disposed of on the same premises or by the same person. 26224

(E) The director, by rules adopted in accordance with 26225
Chapters 119. and 3745. of the Revised Code, shall prescribe any 26226
dates not specified in this section and procedures for collecting 26227
and forwarding the fees prescribed by this section and may 26228
prescribe other requirements that are necessary to carry out this 26229
section. 26230

The director shall deposit the moneys collected under 26231
divisions (A) and (B) of this section into one or more minority 26232
banks, as "minority bank" is defined in division (F)(1) of section 26233
135.04 of the Revised Code, to the credit of the hazardous waste 26234
facility management fund, which is hereby created in the state 26235
treasury, except that the director shall deposit to the credit of 26236
the underground injection control fund created in section 6111.046 26237
of the Revised Code moneys in excess of fifty thousand dollars 26238
that are collected during a fiscal year under division (A)(2) of 26239
this section from the fee levied on the disposal of hazardous 26240
waste by deep well injection at an on-site disposal facility that 26241
disposes of more than one hundred thousand tons of hazardous waste 26242
in a year. 26243

The environmental protection agency ~~and the hazardous waste~~ 26244
~~facility board~~ may use moneys in the hazardous waste facility 26245
management fund for administration of the hazardous waste program 26246
established under this chapter and, in accordance with this 26247
section, may request approval by the controlling board for that 26248
use on an annual basis. In addition, the agency may use and pledge 26249

moneys in that fund for repayment of and for interest on any loans 26250
made by the Ohio water development authority to the agency for the 26251
hazardous waste program established under this chapter without the 26252
necessity of requesting approval by the controlling board, which 26253
use and pledge shall have priority over any other use of the 26254
moneys in the fund. 26255

Until September 28, 1996, the director also may use moneys in 26256
the fund to pay the start-up costs of administering Chapter 3746. 26257
of the Revised Code. 26258

If moneys in the fund that the agency uses in accordance with 26259
this chapter are reimbursed by grants or other moneys from the 26260
United States government, the grants or other moneys shall be 26261
placed in the fund. 26262

Before the agency makes any expenditure from the fund other 26263
than for repayment of and interest on any loan made by the Ohio 26264
water development authority to the agency in accordance with this 26265
section, the controlling board shall approve the expenditure. 26266

Sec. 3734.28. All moneys collected under sections 3734.122, 26267
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 26268
Code and natural resource damages collected by the state under the 26269
"Comprehensive Environmental Response, Compensation, and Liability 26270
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 26271
be paid into the state treasury to the credit of the hazardous 26272
waste clean-up fund, which is hereby created. The environmental 26273
protection agency shall use the moneys in the fund for the 26274
purposes set forth in division (D) of section 3734.122, sections 26275
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 26276
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 26277
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 26278
including any related enforcement expenses. In addition, the 26279
agency shall use the moneys in the fund to pay the state's 26280

long-term operation and maintenance costs or matching share for 26281
actions taken under the "Comprehensive Environmental Response, 26282
Compensation, and Liability Act of 1980," as amended. If those 26283
moneys are reimbursed by grants or other moneys from the United 26284
States or any other person, the moneys shall be placed in the fund 26285
and not in the general revenue fund. 26286

Sec. 3734.42. (A)(1) Except as otherwise provided in division 26287
(E)(2) of this section, every applicant for a permit other than a 26288
permit modification or renewal shall file a disclosure statement, 26289
on a form developed by the attorney general, with the director of 26290
environmental protection and the attorney general at the same time 26291
the applicant files an application for a permit other than a 26292
permit modification or renewal with the director. 26293

(2) Any individual required to be listed in the disclosure 26294
statement shall be fingerprinted for identification and 26295
investigation purposes in accordance with procedures established 26296
by the attorney general. An individual required to be 26297
fingerprinted under this section shall not be required to be 26298
fingerprinted more than once under this section. 26299
26300

(3) The attorney general, within one hundred eighty days 26301
after receipt of the disclosure statement from an applicant for a 26302
permit, shall prepare and transmit to the director an 26303
investigative report on the applicant, based in part upon the 26304
disclosure statement, except that this deadline may be extended 26305
for a reasonable period of time, for good cause, by the director 26306
or the attorney general. In preparing this report, the attorney 26307
general may request and receive criminal history information from 26308
the federal bureau of investigation and any other law enforcement 26309
agency or organization. The attorney general may provide such 26310
confidentiality regarding the information received from a law 26311

enforcement agency as may be imposed by that agency as a condition 26312
for providing that information to the attorney general. 26313

(4) The review of the application by the director ~~or the~~ 26314
~~hazardous waste facility board~~ shall include a review of the 26315
disclosure statement and investigative report. 26316

(B) All applicants and permittees shall provide any 26317
assistance or information requested by the director or the 26318
attorney general and shall cooperate in any inquiry or 26319
investigation conducted by the attorney general and any inquiry, 26320
investigation, or hearing conducted by the director ~~or the~~ 26321
~~hazardous waste facility board~~. If, upon issuance of a formal 26322
request to answer any inquiry or produce information, evidence, or 26323
testimony, any applicant or permittee, any officer, director, or 26324
partner of any business concern, or any key employee of the 26325
applicant or permittee refuses to comply, the permit of the 26326
applicant or permittee may be denied or revoked by the director ~~or~~ 26327
~~the board~~. 26328

(C) The attorney general may charge and collect such fees 26329
from applicants and permittees as are necessary to cover the costs 26330
of administering and enforcing the investigative procedures 26331
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 26332
attorney general shall transmit moneys collected under this 26333
division to the treasurer of state to be credited to the solid and 26334
hazardous waste background investigations fund, which is hereby 26335
created in the state treasury. Moneys in the fund shall be used 26336
solely for paying the attorney general's costs of administering 26337
and enforcing the investigative procedures authorized in sections 26338
3734.41 to 3734.47 of the Revised Code. 26339

(D) Annually on the anniversary date of the submission to the 26340
director by the attorney general of the investigative report for a 26341
specific facility, or annually on another date assigned by the 26342
attorney general, the appropriate applicant, permittee, or 26343

prospective owner shall submit to the attorney general, on a form 26344
provided by the attorney general, any and all information required 26345
to be included in a disclosure statement that has changed or been 26346
added in the immediately preceding year. If, in the immediately 26347
preceding year, there have been no changes in or additions to the 26348
information required to be included in a disclosure statement, the 26349
appropriate applicant, permittee, or prospective owner shall 26350
submit to the attorney general an affidavit stating that there 26351
have been no changes in or additions to that information during 26352
that time period. 26353

Notwithstanding the requirement for an annual submission of 26354
information, the following information shall be submitted within 26355
the periods specified: 26356

(1) Information required to be included in the disclosure 26357
statement for any new officer, director, partner, or key employee, 26358
to be submitted within ninety days from the addition of the 26359
officer, director, partner, or key employee; 26360

(2) Information required to be included in a disclosure 26361
statement for any new business concern, to be submitted within 26362
ninety days from the addition of the new business concern; 26363

(3) Information regarding any new criminal conviction, to be 26364
submitted within ninety days from the judgment entry of 26365
conviction. 26366

The failure to provide such information may constitute the 26367
basis for the revocation or denial of renewal of any permit or 26368
license issued in accordance with this chapter, provided that 26369
prior to any such denial or revocation, the director shall notify 26370
the applicant or permittee of the director's intention to do so 26371
and give the applicant or permittee fourteen days from the date of 26372
the notice to explain why the information was not provided. The 26373
director shall consider this information when determining whether 26374

to revoke or deny the permit or license. 26375

Nothing in this division affects the rights of the director 26376
or the attorney general granted under sections 3734.40 to 3734.47 26377
of the Revised Code to request information from a person at any 26378
other time. 26379

(E)(1) Except as otherwise provided in division (E)(2) of 26380
this section, every permittee who is not otherwise required to 26381
file a disclosure statement shall file a disclosure statement 26382
within five years after June 24, 1988, pursuant to a schedule for 26383
submissions of disclosure statements developed by the attorney 26384
general. The schedule shall provide all permittees and holders of 26385
a license with at least one hundred eighty days' notice prior to 26386
the date upon which the statement is to be submitted. All other 26387
terms of the schedule shall be established at the discretion of 26388
the attorney general and shall not be subject to judicial review. 26389

(2) An applicant for a permit for an off-site solid waste 26390
facility that is a scrap tire storage, monocell, monofill, or 26391
recovery facility issued under section 3734.76, 3734.77, or 26392
3734.78 of the Revised Code, as applicable, shall file a 26393
disclosure statement within five years after October 29, 1993, 26394
pursuant to a schedule for submissions of disclosure statements 26395
developed by the attorney general. The schedule shall provide all 26396
such applicants with at least one hundred eighty days' notice 26397
prior to the date upon which the statement shall be submitted. All 26398
other terms of the schedule shall be established at the discretion 26399
of the attorney general and shall not be subject to judicial 26400
review. 26401

Beginning five years after October 29, 1993, an applicant for 26402
such a permit shall file a disclosure statement in accordance with 26403
division (A)(1) of this section. 26404

(3) When a permittee submits a disclosure statement at the 26405

time it submits an application for a renewal or modification of 26406
its permit, the attorney general shall remove the permittee from 26407
the submission schedule established pursuant to division (E)(1) or 26408
(2) of this section. 26409

(4) After receiving a disclosure statement under division 26410
(E)(1) or (2) of this section, the attorney general shall prepare 26411
an investigative report and transmit it to the director. The 26412
director shall review the disclosure statement and investigative 26413
report to determine whether the statement or report contains 26414
information that if submitted with a permit application would 26415
require a denial of the permit pursuant to section 3734.44 of the 26416
Revised Code. If the director determines that the statement or 26417
report contains such information, the director may revoke any 26418
previously issued permit pursuant to section 3734.45 of the 26419
Revised Code, or the director shall deny any application for a 26420
renewal of a permit or license. When the renewal of the license is 26421
being performed by a board of health, the director shall instruct 26422
the board of health about those circumstances under which the 26423
renewal is required to be denied by this section. 26424

(F)(1) Whenever there is a change in ownership of any 26425
off-site solid waste facility, including incinerators, any 26426
transfer facility, any off-site infectious waste treatment 26427
facility, or any off-site hazardous waste treatment, storage, or 26428
disposal facility, the prospective owner shall file a disclosure 26429
statement with the attorney general and the director at least one 26430
hundred eighty days prior to the proposed change in ownership. 26431
Upon receipt of the disclosure statement, the attorney general 26432
shall prepare an investigative report and transmit it to the 26433
director. The director shall review the disclosure statement and 26434
investigative report to determine whether the statement or report 26435
contains information that if submitted with a permit application 26436
would require a denial of the permit pursuant to section 3734.44 26437

of the Revised Code. If the director determines that the statement 26438
or report contains such information, the director shall disapprove 26439
the change in ownership. 26440

(2) If the parties to a change in ownership decide to proceed 26441
with the change prior to the action of the director on the 26442
disclosure statement and investigative report, the parties shall 26443
include in all contracts or other documents reflecting the change 26444
in ownership language expressly making the change in ownership 26445
subject to the approval of the director and expressly negating the 26446
change if it is disapproved by the director pursuant to division 26447
(F)(1) of this section. 26448

(3) As used in this section, "change in ownership" includes 26449
any change in the names, other than those of officers, directors, 26450
partners, or key employees, contained in the disclosure statement. 26451

Sec. 3734.44. Notwithstanding the provisions of any law to 26452
the contrary, no permit or license shall be issued or renewed by 26453
the director of environmental protection, ~~the hazardous waste~~ 26454
~~facility board,~~ or a board of health: 26455

(A) Unless the director, ~~the hazardous waste facility board,~~ 26456
or the board of health finds that the applicant, in any prior 26457
performance record in the transportation, transfer, treatment, 26458
storage, or disposal of solid wastes, infectious wastes, or 26459
hazardous waste, has exhibited sufficient reliability, expertise, 26460
and competency to operate the solid waste, infectious waste, or 26461
hazardous waste facility, given the potential for harm to human 26462
health and the environment that could result from the 26463
irresponsible operation of the facility, or, if no prior record 26464
exists, that the applicant is likely to exhibit that reliability, 26465
expertise, and competence; 26466

(B) If any individual or business concern required to be 26467
listed in the disclosure statement or shown to have a beneficial 26468

interest in the business of the applicant or the permittee, other	26469
than an equity interest or debt liability, by the investigation	26470
thereof, has been convicted of any of the following crimes under	26471
the laws of this state or equivalent laws of any other	26472
jurisdiction:	26473
(1) Murder;	26474
(2) Kidnapping;	26475
(3) Gambling;	26476
(4) Robbery;	26477
(5) Bribery;	26478
(6) Extortion;	26479
(7) Criminal usury;	26480
(8) Arson;	26481
(9) Burglary;	26482
(10) Theft and related crimes;	26483
(11) Forgery and fraudulent practices;	26484
(12) Fraud in the offering, sale, or purchase of securities;	26485
(13) Alteration of motor vehicle identification numbers;	26486
(14) Unlawful manufacture, purchase, use, or transfer of	26487
firearms;	26488
(15) Unlawful possession or use of destructive devices or	26489
explosives;	26490
(16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06,	26491
2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code,	26492
unless the violation is for possession of less than one hundred	26493
grams of marihuana, less than five grams of marihuana resin or	26494
extraction or preparation of marihuana resin, or less than one	26495
gram of marihuana resin in a liquid concentrate, liquid extract,	26496

or liquid distillate form;	26497
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	26498 26499
(18) Violation of criminal provisions of Chapter 1331. of the Revised Code;	26500 26501
(19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;	26502 26503 26504 26505
(20) Violation of Chapter 2909. of the Revised Code;	26506
(21) Any offense specified in Chapter 2921. of the Revised Code.	26507 26508
(C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a post-release control sanction imposed under section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to the effective date of this amendment. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, the hazardous waste	26509 26510 26511 26512 26513 26514 26515 26516 26517 26518 26519 26520 26521 26522 26523 26524 26525 26526 26527

~~facility board,~~ or the board of health shall request a 26528
recommendation on the matter from the attorney general and shall 26529
consider and base the determination on the following factors: 26530

(1) The nature and responsibilities of the position a 26531
convicted individual would hold; 26532

(2) The nature and seriousness of the offense; 26533

(3) The circumstances under which the offense occurred; 26534

(4) The date of the offense; 26535

(5) The age of the individual when the offense was committed; 26536

(6) Whether the offense was an isolated or repeated incident; 26537

(7) Any social conditions that may have contributed to the 26538
offense; 26539

(8) Any evidence of rehabilitation, including good conduct in 26540
prison or in the community, counseling or psychiatric treatment 26541
received, acquisition of additional academic or vocational 26542
schooling, successful participation in correctional work release 26543
programs, or the recommendation of persons who have or have had 26544
the applicant under their supervision; 26545

(9) In the instance of an applicant that is a business 26546
concern, rehabilitation shall be established if the applicant has 26547
implemented formal management controls to minimize and prevent the 26548
occurrence of violations and activities that will or may result in 26549
permit or license denial or revocation or if the applicant has 26550
formalized those controls as a result of a revocation or denial of 26551
a permit or license. Those controls may include, but are not 26552
limited to, instituting environmental auditing programs to help 26553
ensure the adequacy of internal systems to achieve, maintain, and 26554
monitor compliance with applicable environmental laws and 26555
standards or instituting an antitrust compliance auditing program 26556
to help ensure full compliance with applicable antitrust laws. The 26557

business concern shall prove by a preponderance of the evidence 26558
that the management controls are effective in preventing the 26559
violations that are the subject of concern. 26560

(D) Unless the director, ~~the hazardous waste facility board,~~ 26561
or the board of health finds that the applicant has a history of 26562
compliance with environmental laws in this state and other 26563
jurisdictions and is presently in substantial compliance with, or 26564
on a legally enforceable schedule that will result in compliance 26565
with, environmental laws in this state and other jurisdictions. ~~i~~ 26566

(E) With respect to the approval of a permit, if the director 26567
~~or the hazardous waste facility board~~ determines that current 26568
prosecutions or pending charges in any jurisdiction for any of the 26569
offenses enumerated in division (B) of this section against any 26570
individual or business concern required to be listed in the 26571
disclosure statement or shown by the investigation to have a 26572
beneficial interest in the business of the applicant other than an 26573
equity interest or debt liability are of such magnitude that they 26574
prevent making the finding required under division (A) of this 26575
section, provided that at the request of the applicant or the 26576
individual or business concern charged, the director ~~or the~~ 26577
~~hazardous waste facility board~~ shall defer decision upon the 26578
application during the pendency of the charge. 26579

Sec. 3734.46. Notwithstanding the disqualification of the 26580
applicant or permittee pursuant to this chapter, the director of 26581
environmental protection, ~~hazardous waste facility board,~~ or the 26582
board of health may issue or renew a permit or license if the 26583
applicant or permittee severs the interest of or affiliation with 26584
the individual or business concern that would otherwise cause that 26585
disqualification or may issue or renew a license on a temporary 26586
basis for a period not to exceed six months if the director or the 26587
board of health determines that the issuance or renewal of the 26588

permit or license is necessitated by the public interest. 26589

Sec. 3734.57. (A) For the purposes of paying the state's 26590
long-term operation costs or matching share for actions taken 26591
under the "Comprehensive Environmental Response, Compensation, and 26592
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 26593
amended; paying the costs of measures for proper clean-up of sites 26594
where polychlorinated biphenyls and substances, equipment, and 26595
devices containing or contaminated with polychlorinated biphenyls 26596
have been stored or disposed of; paying the costs of conducting 26597
surveys or investigations of solid waste facilities or other 26598
locations where it is believed that significant quantities of 26599
hazardous waste were disposed of and for conducting enforcement 26600
actions arising from the findings of such surveys or 26601
investigations; paying the costs of acquiring and cleaning up, or 26602
providing financial assistance for cleaning up, any hazardous 26603
waste facility or solid waste facility containing significant 26604
quantities of hazardous waste, that constitutes an imminent and 26605
substantial threat to public health or safety or the environment; 26606
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 26607
purposes of paying the costs of administering and enforcing the 26608
laws pertaining to solid wastes, infectious wastes, and 26609
construction and demolition debris, including, without limitation, 26610
ground water evaluations related to solid wastes, infectious 26611
wastes, and construction and demolition debris, under this chapter 26612
and Chapter 3714. of the Revised Code and any rules adopted under 26613
them, and paying a share of the administrative costs of the 26614
environmental protection agency pursuant to section 3745.014 of 26615
the Revised Code, the following fees are hereby levied on the 26616
disposal of solid wastes in this state: 26617

(1) One dollar per ton on and after July 1, 1993; 26618

(2) An additional ~~seventy-five cents~~ one dollar per ton on 26619

and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 26620

The owner or operator of a solid waste disposal facility 26621
shall collect the fees levied under this division as a trustee for 26622
the state and shall prepare and file with the director of 26623
environmental protection monthly returns indicating the total 26624
tonnage of solid wastes received for disposal at the gate of the 26625
facility and the total amount of the fees collected under this 26626
division. Not later than thirty days after the last day of the 26627
month to which such a return applies, the owner or operator shall 26628
mail to the director the return for that month together with the 26629
fees collected during that month as indicated on the return. The 26630
owner or operator may request an extension of not more than thirty 26631
days for filing the return and remitting the fees, provided that 26632
the owner or operator has submitted such a request in writing to 26633
the director together with a detailed description of why the 26634
extension is requested, the director has received the request not 26635
later than the day on which the return is required to be filed, 26636
and the director has approved the request. If the fees are not 26637
remitted within sixty days after the last day of the month during 26638
which they were collected, the owner or operator shall pay an 26639
additional fifty per cent of the amount of the fees for each month 26640
that they are late. 26641

One-half of the moneys remitted to the director under 26642
division (A)(1) of this section shall be credited to the hazardous 26643
waste facility management fund created in section 3734.18 of the 26644
Revised Code, and one-half shall be credited to the hazardous 26645
waste clean-up fund created in section 3734.28 of the Revised 26646
Code. The moneys remitted to the director under division (A)(2) of 26647
this section shall be credited to the solid waste fund, which is 26648
hereby created in the state treasury. The environmental protection 26649
agency shall use moneys in the solid waste fund only to pay the 26650
costs of administering and enforcing the laws pertaining to solid 26651

wastes, infectious wastes, and construction and demolition debris, 26652
including, without limitation, ground water evaluations related to 26653
solid wastes, infectious wastes, and construction and demolition 26654
debris, under this chapter and Chapter 3714. of the Revised Code 26655
and rules adopted under them and to pay a share of the 26656
administrative costs of the environmental protection agency 26657
pursuant to section 3745.014 of the Revised Code. 26658

The fees levied under this division and divisions (B) and (C) 26659
of this section are in addition to all other applicable fees and 26660
taxes and shall be added to any other fee or amount specified in a 26661
contract that is charged by the owner or operator of a solid waste 26662
disposal facility or to any other fee or amount that is specified 26663
in a contract entered into on or after March 4, 1992, and that is 26664
charged by a transporter of solid wastes. 26665

(B) For the purpose of preparing, revising, and implementing 26666
the solid waste management plan of the county or joint solid waste 26667
management district, including, without limitation, the 26668
development and implementation of solid waste recycling or 26669
reduction programs; providing financial assistance to boards of 26670
health within the district, if solid waste facilities are located 26671
within the district, for the enforcement of this chapter and rules 26672
adopted and orders and terms and conditions of permits, licenses, 26673
and variances issued under it, other than the hazardous waste 26674
provisions of this chapter and rules adopted and orders and terms 26675
and conditions of permits issued under those provisions; providing 26676
financial assistance to the county to defray the added costs of 26677
maintaining roads and other public facilities and of providing 26678
emergency and other public services resulting from the location 26679
and operation of a solid waste facility within the county under 26680
the district's approved solid waste management plan; paying the 26681
costs incurred by boards of health for collecting and analyzing 26682
water samples from public or private wells on lands adjacent to 26683

solid waste facilities that are contained in the approved or 26684
amended plan of the district; paying the costs of developing and 26685
implementing a program for the inspection of solid wastes 26686
generated outside the boundaries of this state that are disposed 26687
of at solid waste facilities included in the district's approved 26688
solid waste management plan or amended plan; providing financial 26689
assistance to boards of health within the district for enforcing 26690
laws prohibiting open dumping; providing financial assistance to 26691
local law enforcement agencies within the district for enforcing 26692
laws and ordinances prohibiting littering; providing financial 26693
assistance to boards of health of health districts within the 26694
district that are on the approved list under section 3734.08 of 26695
the Revised Code for the training and certification required for 26696
their employees responsible for solid waste enforcement by rules 26697
adopted under division (L) of section 3734.02 of the Revised Code; 26698
providing financial assistance to individual municipal 26699
corporations and townships within the district to defray their 26700
added costs of maintaining roads and other public facilities and 26701
of providing emergency and other public services resulting from 26702
the location and operation within their boundaries of a 26703
composting, energy or resource recovery, incineration, or 26704
recycling facility that either is owned by the district or is 26705
furnishing solid waste management facility or recycling services 26706
to the district pursuant to a contract or agreement with the board 26707
of county commissioners or directors of the district; and payment 26708
of any expenses that are agreed to, awarded, or ordered to be paid 26709
under section 3734.35 of the Revised Code and of any 26710
administrative costs incurred pursuant to that section, the solid 26711
waste management policy committee of a county or joint solid waste 26712
management district may levy fees upon the following activities: 26713

(1) The disposal at a solid waste disposal facility located 26714
in the district of solid wastes generated within the district; 26715

(2) The disposal at a solid waste disposal facility within 26716
the district of solid wastes generated outside the boundaries of 26717
the district, but inside this state; 26718

(3) The disposal at a solid waste disposal facility within 26719
the district of solid wastes generated outside the boundaries of 26720
this state. 26721

If any such fees are levied prior to January 1, 1994, fees 26722
levied under division (B)(1) of this section always shall be equal 26723
to one-half of the fees levied under division (B)(2) of this 26724
section, and fees levied under division (B)(3) of this section, 26725
which shall be in addition to fees levied under division (B)(2) of 26726
this section, always shall be equal to fees levied under division 26727
(B)(1) of this section, except as otherwise provided in this 26728
division. The solid waste management plan of the county or joint 26729
district approved under section 3734.521 or 3734.55 of the Revised 26730
Code and any amendments to it, or the resolution adopted under 26731
this division, as appropriate, shall establish the rates of the 26732
fees levied under divisions (B)(1), (2), and (3) of this section, 26733
if any, and shall specify whether the fees are levied on the basis 26734
of tons or cubic yards as the unit of measurement. Although the 26735
fees under divisions (A)(1) and (2) of this section are levied on 26736
the basis of tons as the unit of measurement, the solid waste 26737
management plan of the district and any amendments to it or the 26738
solid waste management policy committee in its resolution levying 26739
fees under this division may direct that the fees levied under 26740
those divisions be levied on the basis of cubic yards as the unit 26741
of measurement based upon a conversion factor of three cubic yards 26742
per ton generally or one cubic yard per ton for baled wastes if 26743
the fees under divisions (B)(1) to (3) of this section are being 26744
levied on the basis of cubic yards as the unit of measurement 26745
under the plan, amended plan, or resolution. 26746

On and after January 1, 1994, the fee levied under division 26747

(B)(1) of this section shall be not less than one dollar per ton 26748
nor more than two dollars per ton, the fee levied under division 26749
(B)(2) of this section shall be not less than two dollars per ton 26750
nor more than four dollars per ton, and the fee levied under 26751
division (B)(3) of this section shall be not more than the fee 26752
levied under division (B)(1) of this section, except as otherwise 26753
provided in this division and notwithstanding any schedule of 26754
those fees established in the solid waste management plan of a 26755
county or joint district approved under section 3734.55 of the 26756
Revised Code or a resolution adopted and ratified under this 26757
division that is in effect on that date. If the fee that a 26758
district is levying under division (B)(1) of this section on that 26759
date under its approved plan or such a resolution is less than one 26760
dollar per ton, the fee shall be one dollar per ton on and after 26761
January 1, 1994, and if the fee that a district is so levying 26762
under that division exceeds two dollars per ton, the fee shall be 26763
two dollars per ton on and after that date. If the fee that a 26764
district is so levying under division (B)(2) of this section is 26765
less than two dollars per ton, the fee shall be two dollars per 26766
ton on and after that date, and if the fee that the district is so 26767
levying under that division exceeds four dollars per ton, the fee 26768
shall be four dollars per ton on and after that date. On that 26769
date, the fee levied by a district under division (B)(3) of this 26770
section shall be equal to the fee levied under division (B)(1) of 26771
this section. Except as otherwise provided in this division, the 26772
fees established by the operation of this amendment shall remain 26773
in effect until the district's resolution levying fees under this 26774
division is amended or repealed in accordance with this division 26775
to amend or abolish the schedule of fees, the schedule of fees is 26776
amended or abolished in an amended plan of the district approved 26777
under section 3734.521 or division (A) or (D) of section 3734.56 26778
of the Revised Code, or the schedule of fees is amended or 26779
abolished through an amendment to the district's plan under 26780

division (E) of section 3734.56 of the Revised Code; the 26781
notification of the amendment or abolishment of the fees has been 26782
given in accordance with this division; and collection of the 26783
amended fees so established commences, or collection of the fees 26784
ceases, in accordance with this division. 26785

The solid waste management policy committee of a district 26786
levying fees under divisions (B)(1) to (3) of this section on 26787
October 29, 1993, under its solid waste management plan approved 26788
under section 3734.55 of the Revised Code or a resolution adopted 26789
and ratified under this division that are within the ranges of 26790
rates prescribed by this amendment, by adoption of a resolution 26791
not later than December 1, 1993, and without the necessity for 26792
ratification of the resolution under this division, may amend 26793
those fees within the prescribed ranges, provided that the 26794
estimated revenues from the amended fees will not substantially 26795
exceed the estimated revenues set forth in the district's budget 26796
for calendar year 1994. Not later than seven days after the 26797
adoption of such a resolution, the committee shall notify by 26798
certified mail the owner or operator of each solid waste disposal 26799
facility that is required to collect the fees of the adoption of 26800
the resolution and of the amount of the amended fees. Collection 26801
of the amended fees shall take effect on the first day of the 26802
first month following the month in which the notification is sent 26803
to the owner or operator. The fees established in such a 26804
resolution shall remain in effect until the district's resolution 26805
levying fees that was adopted and ratified under this division is 26806
amended or repealed, and the amendment or repeal of the resolution 26807
is ratified, in accordance with this division, to amend or abolish 26808
the fees, the schedule of fees is amended or abolished in an 26809
amended plan of the district approved under section 3734.521 or 26810
division (A) or (D) of section 3734.56 of the Revised Code, or the 26811
schedule of fees is amended or abolished through an amendment to 26812
the district's plan under division (E) of section 3734.56 of the 26813

Revised Code; the notification of the amendment or abolishment of 26814
the fees has been given in accordance with this division; and 26815
collection of the amended fees so established commences, or 26816
collection of the fees ceases, in accordance with this division. 26817

Prior to the approval of the solid waste management plan of 26818
the district under section 3734.55 of the Revised Code, the solid 26819
waste management policy committee of a district may levy fees 26820
under this division by adopting a resolution establishing the 26821
proposed amount of the fees. Upon adopting the resolution, the 26822
committee shall deliver a copy of the resolution to the board of 26823
county commissioners of each county forming the district and to 26824
the legislative authority of each municipal corporation and 26825
township under the jurisdiction of the district and shall prepare 26826
and publish the resolution and a notice of the time and location 26827
where a public hearing on the fees will be held. Upon adopting the 26828
resolution, the committee shall deliver written notice of the 26829
adoption of the resolution; of the amount of the proposed fees; 26830
and of the date, time, and location of the public hearing to the 26831
director and to the fifty industrial, commercial, or institutional 26832
generators of solid wastes within the district that generate the 26833
largest quantities of solid wastes, as determined by the 26834
committee, and to their local trade associations. The committee 26835
shall make good faith efforts to identify those generators within 26836
the district and their local trade associations, but the 26837
nonprovision of notice under this division to a particular 26838
generator or local trade association does not invalidate the 26839
proceedings under this division. The publication shall occur at 26840
least thirty days before the hearing. After the hearing, the 26841
committee may make such revisions to the proposed fees as it 26842
considers appropriate and thereafter, by resolution, shall adopt 26843
the revised fee schedule. Upon adopting the revised fee schedule, 26844
the committee shall deliver a copy of the resolution doing so to 26845
the board of county commissioners of each county forming the 26846

district and to the legislative authority of each municipal 26847
corporation and township under the jurisdiction of the district. 26848
Within sixty days after the delivery of a copy of the resolution 26849
adopting the proposed revised fees by the policy committee, each 26850
such board and legislative authority, by ordinance or resolution, 26851
shall approve or disapprove the revised fees and deliver a copy of 26852
the ordinance or resolution to the committee. If any such board or 26853
legislative authority fails to adopt and deliver to the policy 26854
committee an ordinance or resolution approving or disapproving the 26855
revised fees within sixty days after the policy committee 26856
delivered its resolution adopting the proposed revised fees, it 26857
shall be conclusively presumed that the board or legislative 26858
authority has approved the proposed revised fees. 26859

In the case of a county district or a joint district formed 26860
by two or three counties, the committee shall declare the proposed 26861
revised fees to be ratified as the fee schedule of the district 26862
upon determining that the board of county commissioners of each 26863
county forming the district has approved the proposed revised fees 26864
and that the legislative authorities of a combination of municipal 26865
corporations and townships with a combined population within the 26866
district comprising at least sixty per cent of the total 26867
population of the district have approved the proposed revised 26868
fees, provided that in the case of a county district, that 26869
combination shall include the municipal corporation having the 26870
largest population within the boundaries of the district, and 26871
provided further that in the case of a joint district formed by 26872
two or three counties, that combination shall include for each 26873
county forming the joint district the municipal corporation having 26874
the largest population within the boundaries of both the county in 26875
which the municipal corporation is located and the joint district. 26876
In the case of a joint district formed by four or more counties, 26877
the committee shall declare the proposed revised fees to be 26878
ratified as the fee schedule of the joint district upon 26879

determining that the boards of county commissioners of a majority 26880
of the counties forming the district have approved the proposed 26881
revised fees; that, in each of a majority of the counties forming 26882
the joint district, the proposed revised fees have been approved 26883
by the municipal corporation having the largest population within 26884
the county and the joint district; and that the legislative 26885
authorities of a combination of municipal corporations and 26886
townships with a combined population within the joint district 26887
comprising at least sixty per cent of the total population of the 26888
joint district have approved the proposed revised fees. 26889

For the purposes of this division, only the population of the 26890
unincorporated area of a township shall be considered. For the 26891
purpose of determining the largest municipal corporation within 26892
each county under this division, a municipal corporation that is 26893
located in more than one solid waste management district, but that 26894
is under the jurisdiction of one county or joint solid waste 26895
management district in accordance with division (A) of section 26896
3734.52 of the Revised Code shall be considered to be within the 26897
boundaries of the county in which a majority of the population of 26898
the municipal corporation resides. 26899

The committee may amend the schedule of fees levied pursuant 26900
to a resolution or amended resolution adopted and ratified under 26901
this division by adopting a resolution establishing the proposed 26902
amount of the amended fees. The committee may abolish the fees 26903
levied pursuant to such a resolution or amended resolution by 26904
adopting a resolution proposing to repeal them. Upon adopting such 26905
a resolution, the committee shall proceed to obtain ratification 26906
of the resolution in accordance with this division. 26907

Not later than fourteen days after declaring the fees or 26908
amended fees to be ratified under this division, the committee 26909
shall notify by certified mail the owner or operator of each solid 26910
waste disposal facility that is required to collect the fees of 26911

the ratification and the amount of the fees. Collection of any 26912
fees or amended fees ratified on or after March 24, 1992, shall 26913
commence on the first day of the second month following the month 26914
in which notification is sent to the owner or operator. 26915

Not later than fourteen days after declaring the repeal of 26916
the district's schedule of fees to be ratified under this 26917
division, the committee shall notify by certified mail the owner 26918
or operator of each facility that is collecting the fees of the 26919
repeal. Collection of the fees shall cease on the first day of the 26920
second month following the month in which notification is sent to 26921
the owner or operator. 26922

Not later than fourteen days after the director issues an 26923
order approving a district's solid waste management plan under 26924
section 3734.55 of the Revised Code or amended plan under division 26925
(A) or (D) of section 3734.56 of the Revised Code that establishes 26926
or amends a schedule of fees levied by the district, or the 26927
ratification of an amendment to the district's approved plan or 26928
amended plan under division (E) of section 3734.56 of the Revised 26929
Code that establishes or amends a schedule of fees, as 26930
appropriate, the committee shall notify by certified mail the 26931
owner or operator of each solid waste disposal facility that is 26932
required to collect the fees of the approval of the plan or 26933
amended plan, or the amendment to the plan, as appropriate, and 26934
the amount of the fees or amended fees. In the case of an initial 26935
or amended plan approved under section 3734.521 of the Revised 26936
Code in connection with a change in district composition, other 26937
than one involving the withdrawal of a county from a joint 26938
district, that establishes or amends a schedule of fees levied 26939
under divisions (B)(1) to (3) of this section by a district 26940
resulting from the change, the committee, within fourteen days 26941
after the change takes effect pursuant to division (G) of that 26942
section, shall notify by certified mail the owner or operator of 26943

each solid waste disposal facility that is required to collect the 26944
fees that the change has taken effect and of the amount of the 26945
fees or amended fees. Collection of any fees set forth in a plan 26946
or amended plan approved by the director on or after April 16, 26947
1993, or an amendment of a plan or amended plan under division (E) 26948
of section 3734.56 of the Revised Code that is ratified on or 26949
after April 16, 1993, shall commence on the first day of the 26950
second month following the month in which notification is sent to 26951
the owner or operator. 26952

Not later than fourteen days after the director issues an 26953
order approving a district's plan under section 3734.55 of the 26954
Revised Code or amended plan under division (A) or (D) of section 26955
3734.56 of the Revised Code that abolishes the schedule of fees 26956
levied under divisions (B)(1) to (3) of this section, or an 26957
amendment to the district's approved plan or amended plan 26958
abolishing the schedule of fees is ratified pursuant to division 26959
(E) of section 3734.56 of the Revised Code, as appropriate, the 26960
committee shall notify by certified mail the owner or operator of 26961
each facility that is collecting the fees of the approval of the 26962
plan or amended plan, or the amendment of the plan or amended 26963
plan, as appropriate, and the abolishment of the fees. In the case 26964
of an initial or amended plan approved under section 3734.521 of 26965
the Revised Code in connection with a change in district 26966
composition, other than one involving the withdrawal of a county 26967
from a joint district, that abolishes the schedule of fees levied 26968
under divisions (B)(1) to (3) of this section by a district 26969
resulting from the change, the committee, within fourteen days 26970
after the change takes effect pursuant to division (G) of that 26971
section, shall notify by certified mail the owner or operator of 26972
each solid waste disposal facility that is required to collect the 26973
fees that the change has taken effect and of the abolishment of 26974
the fees. Collection of the fees shall cease on the first day of 26975
the second month following the month in which notification is sent 26976

to the owner or operator. 26977

Except as otherwise provided in this division, if the 26978
schedule of fees that a district is levying under divisions (B)(1) 26979
to (3) of this section pursuant to a resolution or amended 26980
resolution adopted and ratified under this division, the solid 26981
waste management plan of the district approved under section 26982
3734.55 of the Revised Code, an amended plan approved under 26983
division (A) or (D) of section 3734.56 of the Revised Code, or an 26984
amendment to the district's approved plan or amended plan under 26985
division (E) of section 3734.56 of the Revised Code, is amended by 26986
the adoption and ratification of an amendment to the resolution or 26987
amended resolution or an amendment of the district's approved plan 26988
or amended plan, the fees in effect immediately prior to the 26989
approval of the plan or the amendment of the resolution, amended 26990
resolution, plan, or amended plan, as appropriate, shall continue 26991
to be collected until collection of the amended fees commences 26992
pursuant to this division. 26993

If, in the case of a change in district composition involving 26994
the withdrawal of a county from a joint district, the director 26995
completes the actions required under division (G)(1) or (3) of 26996
section 3734.521 of the Revised Code, as appropriate, forty-five 26997
days or more before the beginning of a calendar year, the policy 26998
committee of each of the districts resulting from the change that 26999
obtained the director's approval of an initial or amended plan in 27000
connection with the change, within fourteen days after the 27001
director's completion of the required actions, shall notify by 27002
certified mail the owner or operator of each solid waste disposal 27003
facility that is required to collect the district's fees that the 27004
change is to take effect on the first day of January immediately 27005
following the issuance of the notice and of the amount of the fees 27006
or amended fees levied under divisions (B)(1) to (3) of this 27007
section pursuant to the district's initial or amended plan as so 27008

approved or, if appropriate, the abolishment of the district's 27009
fees by that initial or amended plan. Collection of any fees set 27010
forth in such a plan or amended plan shall commence on the first 27011
day of January immediately following the issuance of the notice. 27012
If such an initial or amended plan abolishes a schedule of fees, 27013
collection of the fees shall cease on that first day of January. 27014

If, in the case of a change in district composition involving 27015
the withdrawal of a county from a joint district, the director 27016
completes the actions required under division (G)(1) or (3) of 27017
section 3734.521 of the Revised Code, as appropriate, less than 27018
forty-five days before the beginning of a calendar year, the 27019
director, on behalf of each of the districts resulting from the 27020
change that obtained the director's approval of an initial or 27021
amended plan in connection with the change proceedings, shall 27022
notify by certified mail the owner or operator of each solid waste 27023
disposal facility that is required to collect the district's fees 27024
that the change is to take effect on the first day of January 27025
immediately following the mailing of the notice and of the amount 27026
of the fees or amended fees levied under divisions (B)(1) to (3) 27027
of this section pursuant to the district's initial or amended plan 27028
as so approved or, if appropriate, the abolishment of the 27029
district's fees by that initial or amended plan. Collection of any 27030
fees set forth in such a plan or amended plan shall commence on 27031
the first day of the second month following the month in which 27032
notification is sent to the owner or operator. If such an initial 27033
or amended plan abolishes a schedule of fees, collection of the 27034
fees shall cease on the first day of the second month following 27035
the month in which notification is sent to the owner or operator. 27036

In the case of a change in district composition, the schedule 27037
of fees that the former districts that existed prior to the change 27038
were levying under divisions (B)(1) to (3) of this section 27039
pursuant to a resolution or amended resolution adopted and 27040

ratified under this division, the solid waste management plan of a 27041
former district approved under section 3734.521 or 3734.55 of the 27042
Revised Code, an amended plan approved under section 3734.521 or 27043
division (A) or (D) of section 3734.56 of the Revised Code, or an 27044
amendment to a former district's approved plan or amended plan 27045
under division (E) of section 3734.56 of the Revised Code, and 27046
that were in effect on the date that the director completed the 27047
actions required under division (G)(1) or (3) of section 3734.521 27048
of the Revised Code shall continue to be collected until the 27049
collection of the fees or amended fees of the districts resulting 27050
from the change is required to commence, or if an initial or 27051
amended plan of a resulting district abolishes a schedule of fees, 27052
collection of the fees is required to cease, under this division. 27053
Moneys so received from the collection of the fees of the former 27054
districts shall be divided among the resulting districts in 27055
accordance with division (B) of section 343.012 of the Revised 27056
Code and the agreements entered into under division (B) of section 27057
343.01 of the Revised Code to establish the former and resulting 27058
districts and any amendments to those agreements. 27059

For the purposes of the provisions of division (B) of this 27060
section establishing the times when newly established or amended 27061
fees levied by a district are required to commence and the 27062
collection of fees that have been amended or abolished is required 27063
to cease, "fees" or "schedule of fees" includes, in addition to 27064
fees levied under divisions (B)(1) to (3) of this section, those 27065
levied under section 3734.573 or 3734.574 of the Revised Code. 27066

(C) For the purposes of defraying the added costs to a 27067
municipal corporation or township of maintaining roads and other 27068
public facilities and of providing emergency and other public 27069
services, and compensating a municipal corporation or township for 27070
reductions in real property tax revenues due to reductions in real 27071
property valuations resulting from the location and operation of a 27072

solid waste disposal facility within the municipal corporation or 27073
township, a municipal corporation or township in which such a 27074
solid waste disposal facility is located may levy a fee of not 27075
more than twenty-five cents per ton on the disposal of solid 27076
wastes at a solid waste disposal facility located within the 27077
boundaries of the municipal corporation or township regardless of 27078
where the wastes were generated. 27079

The legislative authority of a municipal corporation or 27080
township may levy fees under this division by enacting an 27081
ordinance or adopting a resolution establishing the amount of the 27082
fees. Upon so doing the legislative authority shall mail a 27083
certified copy of the ordinance or resolution to the board of 27084
county commissioners or directors of the county or joint solid 27085
waste management district in which the municipal corporation or 27086
township is located or, if a regional solid waste management 27087
authority has been formed under section 343.011 of the Revised 27088
Code, to the board of trustees of that regional authority, the 27089
owner or operator of each solid waste disposal facility in the 27090
municipal corporation or township that is required to collect the 27091
fee by the ordinance or resolution, and the director of 27092
environmental protection. Although the fees levied under this 27093
division are levied on the basis of tons as the unit of 27094
measurement, the legislative authority, in its ordinance or 27095
resolution levying the fees under this division, may direct that 27096
the fees be levied on the basis of cubic yards as the unit of 27097
measurement based upon a conversion factor of three cubic yards 27098
per ton generally or one cubic yard per ton for baled wastes. 27099

Not later than five days after enacting an ordinance or 27100
adopting a resolution under this division, the legislative 27101
authority shall so notify by certified mail the owner or operator 27102
of each solid waste disposal facility that is required to collect 27103
the fee. Collection of any fee levied on or after March 24, 1992, 27104

shall commence on the first day of the second month following the 27105
month in which notification is sent to the owner or operator. 27106

(D)(1) The fees levied under divisions (A), (B), and (C) of 27107
this section do not apply to the disposal of solid wastes that: 27108

(a) Are disposed of at a facility owned by the generator of 27109
the wastes when the solid waste facility exclusively disposes of 27110
solid wastes generated at one or more premises owned by the 27111
generator regardless of whether the facility is located on a 27112
premises where the wastes are generated; 27113

(b) Are disposed of at facilities that exclusively dispose of 27114
wastes that are generated from the combustion of coal, or from the 27115
combustion of primarily coal in combination with scrap tires, that 27116
is not combined in any way with garbage at one or more premises 27117
owned by the generator. 27118

(2) Except as provided in section 3734.571 of the Revised 27119
Code, any fees levied under division (B)(1) of this section apply 27120
to solid wastes originating outside the boundaries of a county or 27121
joint district that are covered by an agreement for the joint use 27122
of solid waste facilities entered into under section 343.02 of the 27123
Revised Code by the board of county commissioners or board of 27124
directors of the county or joint district where the wastes are 27125
generated and disposed of. 27126

(3) When solid wastes, other than solid wastes that consist 27127
of scrap tires, are burned in a disposal facility that is an 27128
incinerator or energy recovery facility, the fees levied under 27129
divisions (A), (B), and (C) of this section shall be levied upon 27130
the disposal of the fly ash and bottom ash remaining after burning 27131
of the solid wastes and shall be collected by the owner or 27132
operator of the sanitary landfill where the ash is disposed of. 27133

(4) When solid wastes are delivered to a solid waste transfer 27134
facility, the fees levied under divisions (A), (B), and (C) of 27135

this section shall be levied upon the disposal of solid wastes 27136
transported off the premises of the transfer facility for disposal 27137
and shall be collected by the owner or operator of the solid waste 27138
disposal facility where the wastes are disposed of. 27139

(5) The fees levied under divisions (A), (B), and (C) of this 27140
section do not apply to sewage sludge that is generated by a waste 27141
water treatment facility holding a national pollutant discharge 27142
elimination system permit and that is disposed of through 27143
incineration, land application, or composting or at another 27144
resource recovery or disposal facility that is not a landfill. 27145

(6) The fees levied under divisions (A), (B), and (C) of this 27146
section do not apply to solid wastes delivered to a solid waste 27147
composting facility for processing. When any unprocessed solid 27148
waste or compost product is transported off the premises of a 27149
composting facility and disposed of at a landfill, the fees levied 27150
under divisions (A), (B), and (C) of this section shall be 27151
collected by the owner or operator of the landfill where the 27152
unprocessed waste or compost product is disposed of. 27153

(7) When solid wastes that consist of scrap tires are 27154
processed at a scrap tire recovery facility, the fees levied under 27155
divisions (A), (B), and (C) of this section shall be levied upon 27156
the disposal of the fly ash and bottom ash or other solid wastes 27157
remaining after the processing of the scrap tires and shall be 27158
collected by the owner or operator of the solid waste disposal 27159
facility where the ash or other solid wastes are disposed of. 27160

(E) The fees levied under divisions (B) and (C) of this 27161
section shall be collected by the owner or operator of the solid 27162
waste disposal facility where the wastes are disposed of as a 27163
trustee for the county or joint district and municipal corporation 27164
or township where the wastes are disposed of. Moneys from the fees 27165
levied under division (B) of this section shall be forwarded to 27166
the board of county commissioners or board of directors of the 27167

district in accordance with rules adopted under division (H) of 27168
this section. Moneys from the fees levied under division (C) of 27169
this section shall be forwarded to the treasurer or such other 27170
officer of the municipal corporation as, by virtue of the charter, 27171
has the duties of the treasurer or to the clerk of the township, 27172
as appropriate, in accordance with those rules. 27173

(F) Moneys received by the treasurer or such other officer of 27174
the municipal corporation under division (E) of this section shall 27175
be paid into the general fund of the municipal corporation. Moneys 27176
received by the clerk of the township under that division shall be 27177
paid into the general fund of the township. The treasurer or such 27178
other officer of the municipal corporation or the clerk, as 27179
appropriate, shall maintain separate records of the moneys 27180
received from the fees levied under division (C) of this section. 27181

(G) Moneys received by the board of county commissioners or 27182
board of directors under division (E) of this section or section 27183
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 27184
shall be paid to the county treasurer, or other official acting in 27185
a similar capacity under a county charter, in a county district or 27186
to the county treasurer or other official designated by the board 27187
of directors in a joint district and kept in a separate and 27188
distinct fund to the credit of the district. If a regional solid 27189
waste management authority has been formed under section 343.011 27190
of the Revised Code, moneys received by the board of trustees of 27191
that regional authority under division (E) of this section shall 27192
be kept by the board in a separate and distinct fund to the credit 27193
of the district. Moneys in the special fund of the county or joint 27194
district arising from the fees levied under division (B) of this 27195
section and the fee levied under division (A) of section 3734.573 27196
of the Revised Code shall be expended by the board of county 27197
commissioners or directors of the district in accordance with the 27198
district's solid waste management plan or amended plan approved 27199

under section 3734.521, 3734.55, or 3734.56 of the Revised Code	27200
exclusively for the following purposes:	27201
(1) Preparation of the solid waste management plan of the	27202
district under section 3734.54 of the Revised Code, monitoring	27203
implementation of the plan, and conducting the periodic review and	27204
amendment of the plan required by section 3734.56 of the Revised	27205
Code by the solid waste management policy committee;	27206
(2) Implementation of the approved solid waste management	27207
plan or amended plan of the district, including, without	27208
limitation, the development and implementation of solid waste	27209
recycling or reduction programs;	27210
(3) Providing financial assistance to boards of health within	27211
the district, if solid waste facilities are located within the	27212
district, for enforcement of this chapter and rules, orders, and	27213
terms and conditions of permits, licenses, and variances adopted	27214
or issued under it, other than the hazardous waste provisions of	27215
this chapter and rules adopted and orders and terms and conditions	27216
of permits issued under those provisions;	27217
(4) Providing financial assistance to each county within the	27218
district to defray the added costs of maintaining roads and other	27219
public facilities and of providing emergency and other public	27220
services resulting from the location and operation of a solid	27221
waste facility within the county under the district's approved	27222
solid waste management plan or amended plan;	27223
(5) Pursuant to contracts entered into with boards of health	27224
within the district, if solid waste facilities contained in the	27225
district's approved plan or amended plan are located within the	27226
district, for paying the costs incurred by those boards of health	27227
for collecting and analyzing samples from public or private water	27228
wells on lands adjacent to those facilities;	27229
(6) Developing and implementing a program for the inspection	27230

of solid wastes generated outside the boundaries of this state 27231
that are disposed of at solid waste facilities included in the 27232
district's approved solid waste management plan or amended plan; 27233

(7) Providing financial assistance to boards of health within 27234
the district for the enforcement of section 3734.03 of the Revised 27235
Code or to local law enforcement agencies having jurisdiction 27236
within the district for enforcing anti-littering laws and 27237
ordinances; 27238

(8) Providing financial assistance to boards of health of 27239
health districts within the district that are on the approved list 27240
under section 3734.08 of the Revised Code to defray the costs to 27241
the health districts for the participation of their employees 27242
responsible for enforcement of the solid waste provisions of this 27243
chapter and rules adopted and orders and terms and conditions of 27244
permits, licenses, and variances issued under those provisions in 27245
the training and certification program as required by rules 27246
adopted under division (L) of section 3734.02 of the Revised Code; 27247

(9) Providing financial assistance to individual municipal 27248
corporations and townships within the district to defray their 27249
added costs of maintaining roads and other public facilities and 27250
of providing emergency and other public services resulting from 27251
the location and operation within their boundaries of a 27252
composting, energy or resource recovery, incineration, or 27253
recycling facility that either is owned by the district or is 27254
furnishing solid waste management facility or recycling services 27255
to the district pursuant to a contract or agreement with the board 27256
of county commissioners or directors of the district; 27257

(10) Payment of any expenses that are agreed to, awarded, or 27258
ordered to be paid under section 3734.35 of the Revised Code and 27259
of any administrative costs incurred pursuant to that section. In 27260
the case of a joint solid waste management district, if the board 27261
of county commissioners of one of the counties in the district is 27262

negotiating on behalf of affected communities, as defined in that 27263
section, in that county, the board shall obtain the approval of 27264
the board of directors of the district in order to expend moneys 27265
for administrative costs incurred. 27266

Prior to the approval of the district's solid waste 27267
management plan under section 3734.55 of the Revised Code, moneys 27268
in the special fund of the district arising from the fees shall be 27269
expended for those purposes in the manner prescribed by the solid 27270
waste management policy committee by resolution. 27271

Notwithstanding division (G)(6) of this section as it existed 27272
prior to October 29, 1993, or any provision in a district's solid 27273
waste management plan prepared in accordance with division 27274
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 27275
prior to that date, any moneys arising from the fees levied under 27276
division (B)(3) of this section prior to January 1, 1994, may be 27277
expended for any of the purposes authorized in divisions (G)(1) to 27278
(10) of this section. 27279

(H) The director shall adopt rules in accordance with Chapter 27280
119. of the Revised Code prescribing procedures for collecting and 27281
forwarding the fees levied under divisions (B) and (C) of this 27282
section to the boards of county commissioners or directors of 27283
county or joint solid waste management districts and to the 27284
treasurers or other officers of municipal corporations or to the 27285
clerks of townships. The rules also shall prescribe the dates for 27286
forwarding the fees to the boards and officials and may prescribe 27287
any other requirements the director considers necessary or 27288
appropriate to implement and administer divisions (A), (B), and 27289
(C) of this section. Collection of the fees levied under division 27290
(A)(1) of this section shall commence on July 1, 1993. Collection 27291
of the fees levied under division (A)(2) of this section shall 27292
commence on January 1, 1994. 27293

Sec. 3737.01. As used in this chapter:	27294
(A) "Assistant fire marshal" means any person who is employed by the fire marshal and who carries out specific duties assigned by the fire marshal, including, but not limited to, enforcement of Chapters 3731., 3737., and 3743. of the Revised Code, fire inspection, fire code enforcement, fire investigation, <u>and</u> fire prevention, or the regulation of underground storage tank systems as defined in section 3737.87 of the Revised Code.	27295 27296 27297 27298 27299 27300 27301
(B) "Consumer goods" means any item sold, leased, or rented primarily for personal or household use.	27302 27303
(C) "Fire agency" means any state or local fire service or agency whose function is to examine the property of another person for the purpose of identifying fire safety hazards.	27304 27305 27306
(D) "Fire safety inspector" means any person who is a member of the civil service, as defined in section 124.01 of the Revised Code, or who is employed by or voluntarily serves a village or township, and who examines the property of another person for the purpose of identifying fire safety hazards.	27307 27308 27309 27310 27311
(E) "Person," in addition to the meaning in section 1.59 of the Revised Code, means the state and any political subdivision of the state, and any other entity, public or private.	27312 27313 27314
(F) "Responsible person" means the person responsible for compliance with the state fire code, including, but not limited to, the owner, lessee, agent, operator, or occupant of a building, premises, or vehicle.	27315 27316 27317 27318
Sec. 3737.02. (A) The fire marshal may collect fees to cover the costs of performing inspections and other duties that the fire marshal is authorized or required by law to perform. Except as provided in division (B) of this section, all fees collected by	27319 27320 27321 27322

the fire marshal shall be deposited to the credit of the fire marshal's fund. 27323
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(B) Fees collected under sections 3737.88 and 3737.881 of the Revised Code for operation of the underground storage tank and underground storage tank installer certification programs, moneys recovered under section 3737.89 of the Revised Code for the state's costs of undertaking corrective or enforcement actions under that section or section 3737.882 of the Revised Code, and fines and penalties collected under section 3737.882 of the Revised Code shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury. All interest earned on moneys credited to the underground storage tank administration fund shall be credited to the fund. Moneys credited to the underground storage tank administration fund shall be used by the ~~fire marshal~~ superintendent of industrial compliance for implementation and enforcement of underground storage tank, corrective action, and installer certification programs under sections 3737.88 to 3737.89 of the Revised Code. 27325
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(C) The ~~fire marshal~~ superintendent shall take all actions necessary to obtain any federal funding available to carry out the ~~fire marshal's~~ superintendent's responsibilities under sections 3737.88 to 3737.89 of the Revised Code and federal laws regarding the cleaning up of releases of petroleum, as "release" is defined in section 3737.87 of the Revised Code, including, without limitation, any federal funds that are available to reimburse the state for the costs of undertaking corrective actions for such releases of petroleum. The state may, when appropriate, return to the United States any federal funds recovered under sections 3737.882 and 3737.89 of the Revised Code. 27342
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Sec. 3737.21. (A) The director of the ~~department of commerce~~ 27353

public safety shall appoint, from names submitted to the director 27354
by the state fire commission, a fire marshal, who shall serve at 27355
the pleasure of the director and shall possess the following 27356
qualifications: 27357

(1) A degree from an accredited college or university with 27358
specialized study in either the field of fire protection or fire 27359
protection engineering, or the equivalent qualifications 27360
determined from training, experience, and duties in a fire 27361
service; 27362

(2) Five years of recent, progressively more responsible 27363
experience in fire inspection, fire code enforcement, fire 27364
investigation, fire protection engineering, teaching of fire 27365
safety engineering, or fire fighting. 27366

(B) When a vacancy occurs in the position of fire marshal, 27367
the director shall notify the state fire commission. The 27368
commission shall communicate the fact of the vacancy by regular 27369
mail to all fire chiefs and fire protection engineers known to the 27370
commission, or whose identity may be ascertained by the commission 27371
by the exercise of due diligence. The commission, no earlier than 27372
thirty days after mailing the notification, shall compile a list 27373
of all applicants for the position of fire marshal who are 27374
qualified under this section. The commission shall submit the 27375
names of at least three persons on the list to the director. The 27376
director shall appoint the fire marshal from the list of at least 27377
three names or may request the commission to submit additional 27378
names. 27379

Sec. 3737.22. (A) The fire marshal shall do all of the 27380
following: 27381

(1) Adopt the state fire code under sections 3737.82 to 27382
3737.86 of the Revised Code; 27383

(2) Enforce the state fire code;	27384
(3) Appoint assistant fire marshals who are authorized to enforce the state fire code;	27385 27386
(4) Conduct investigations into the cause, origin, and circumstances of fires and explosions, and assist in the prosecution of persons believed to be guilty of arson or a similar crime;	27387 27388 27389 27390
(5) Compile statistics concerning loss due to fire and explosion as the fire marshal considers necessary, and consider the compatibility of the fire marshal's system of compilation with the systems of other state and federal agencies and fire marshals of other states;	27391 27392 27393 27394 27395
(6) Engage in research on the cause and prevention of losses due to fire and explosion;	27396 27397
(7) Engage in public education and informational activities which will inform the public of fire safety information;	27398 27399
(8) Operate a fire training academy and forensic laboratory;	27400
(9) Conduct other fire safety and fire fighting training activities for the public and groups as will further the cause of fire safety;	27401 27402 27403
(10) Conduct licensing examinations, and issue permits, licenses, and certificates, as authorized by the Revised Code;	27404 27405
(11) Conduct tests of fire protection systems and devices, and fire fighting equipment to determine compliance with the state fire code, unless a building is insured against the hazard of fire, in which case such tests may be performed by the company insuring the building;	27406 27407 27408 27409 27410
(12) Establish and collect fees for conducting licensing examinations and for issuing permits, licenses, and certificates;	27411 27412

(13) Make available for the prosecuting attorney and an 27413
assistant prosecuting attorney from each county of this state, in 27414
accordance with section 3737.331 of the Revised Code, a seminar 27415
program, attendance at which is optional, that is designed to 27416
provide current information, data, training, and techniques 27417
relative to the prosecution of arson cases; 27418

(14) Administer and enforce Chapter 3743. of the Revised 27419
Code; 27420

(15) Develop a uniform standard for the reporting of 27421
information required to be filed under division (E)(4) of section 27422
2921.22 of the Revised Code, and accept the reports of the 27423
information when they are filed. 27424

(B) The fire marshal shall appoint a chief deputy fire 27425
marshal, and shall employ professional and clerical assistants as 27426
the fire marshal considers necessary. The chief deputy shall be a 27427
competent former or current member of a fire agency and possess 27428
five years of recent, progressively more responsible experience in 27429
fire inspection, fire code enforcement, and fire code management. 27430
The chief deputy, with the approval of the director of ~~commerce~~ 27431
public safety, shall temporarily assume the duties of the fire 27432
marshal when the fire marshal is absent or temporarily unable to 27433
carry out the duties of the office. When there is a vacancy in the 27434
office of fire marshal, the chief deputy, with the approval of the 27435
director of ~~commerce~~ public safety, shall temporarily assume the 27436
duties of the fire marshal until a new fire marshal is appointed 27437
under section 3737.21 of the Revised Code. 27438

All employees, other than the fire marshal; the chief deputy 27439
fire marshal; the superintendent of the Ohio fire academy; the 27440
grants administrator; the fiscal officer; the executive secretary 27441
to the fire marshal; legal counsel; the pyrotechnics 27442
administrator, the chief of the forensic laboratory; the person 27443

appointed by the fire marshal to serve as administrator over 27444
functions concerning testing, license examinations, and the 27445
issuance of permits and certificates; and the chiefs of the 27446
bureaus of fire prevention, of fire and explosion investigation, 27447
and of code enforcement, ~~and of underground storage tanks~~ shall be 27448
in the classified civil service. The fire marshal shall authorize 27449
the chief deputy and other employees under the fire marshal's 27450
supervision to exercise powers granted to the fire marshal by law 27451
as may be necessary to carry out the duties of the fire marshal's 27452
office. 27453

(C) The fire marshal shall create, in and as a part of the 27454
office of fire marshal, a fire and explosion investigation bureau 27455
consisting of a chief of the bureau and additional assistant fire 27456
marshals as the fire marshal determines necessary for the 27457
efficient administration of the bureau. The chief shall be 27458
experienced in the investigation of the cause, origin, and 27459
circumstances of fires, and in administration, including the 27460
supervision of subordinates. The chief, among other duties 27461
delegated to the chief by the fire marshal, shall be responsible, 27462
under the direction of the fire marshal, for the investigation of 27463
the cause, origin, and circumstances of fires and explosions in 27464
the state, and for assistance in the prosecution of persons 27465
believed to be guilty of arson or a similar crime. 27466

(D)(1) The fire marshal shall create, as part of the office 27467
of fire marshal, a bureau of code enforcement consisting of a 27468
chief of the bureau and additional assistant fire marshals as the 27469
fire marshal determines necessary for the efficient administration 27470
of the bureau. The chief shall be qualified, by education or 27471
experience, in fire inspection, fire code development, fire code 27472
enforcement, or any other similar field determined by the fire 27473
marshal, and in administration, including the supervision of 27474
subordinates. The chief is responsible, under the direction of the 27475

fire marshal, for fire inspection, fire code development, fire 27476
code enforcement, and any other duties delegated to the chief by 27477
the fire marshal. 27478

(2) The fire marshal, the chief deputy fire marshal, the 27479
chief of the bureau of code enforcement, or any assistant fire 27480
marshal under the direction of the fire marshal, the chief deputy 27481
fire marshal, or the chief of the bureau of code enforcement may 27482
cause to be conducted the inspection of all buildings, structures, 27483
and other places, the condition of which may be dangerous from a 27484
fire safety standpoint to life or property, or to property 27485
adjacent to the buildings, structures, or other places. 27486

(E) The fire marshal shall create, as a part of the office of 27487
fire marshal, a bureau of fire prevention consisting of a chief of 27488
the bureau and additional assistant fire marshals as the fire 27489
marshal determines necessary for the efficient administration of 27490
the bureau. The chief shall be qualified, by education or 27491
experience, to promote programs for rural and urban fire 27492
prevention and protection. The chief, among other duties delegated 27493
to the chief by the fire marshal, is responsible, under the 27494
direction of the fire marshal, for the promotion of rural and 27495
urban fire prevention and protection through public information 27496
and education programs. 27497

(F) The fire marshal shall cooperate with the director of job 27498
and family services when the director adopts rules under section 27499
5104.052 of the Revised Code regarding fire prevention and fire 27500
safety in certified type B family day-care homes, as defined in 27501
section 5104.01 of the Revised Code, recommend procedures for 27502
inspecting type B homes to determine whether they are in 27503
compliance with those rules, and provide training and technical 27504
assistance to the director and county directors of job and family 27505
services on the procedures for determining compliance with those 27506
rules. 27507

(G) The fire marshal, upon request of a provider of child day-care in a type B home that is not certified by the county director of job and family services, as a precondition of approval by the state board of education under section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, shall inspect the type B home to determine compliance with rules adopted under section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B homes. In municipal corporations and in townships where there is a certified fire safety inspector, the inspections shall be made by that inspector under the supervision of the fire marshal, according to rules adopted under section 5104.052 of the Revised Code. In townships outside municipal corporations where there is no certified fire safety inspector, inspections shall be made by the fire marshal.

Sec. 3737.71. Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30, 3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and the Ohio fire

academy established by section 3737.33 of the Revised Code. If the 27540
director of ~~commerce~~ public safety certifies to the director of 27541
budget and management that the cash balance in the state fire 27542
marshal's fund is in excess of the amount needed to pay ongoing 27543
operating expenses, the director may use the excess amount to 27544
acquire by purchase, lease, or otherwise, real property or 27545
interests in real property to be used for the benefit of the 27546
office of the state fire marshal, or to construct, acquire, 27547
enlarge, equip, furnish, or improve the fire marshal's office 27548
facilities or the facilities of the Ohio fire academy. The state 27549
fire marshal's fund shall be assessed a proportionate share of the 27550
administrative costs of the department of ~~commerce~~ public safety 27551
in accordance with procedures prescribed by the director of 27552
~~commerce~~ public safety and approved by the director of budget and 27553
management. Such assessment shall be paid from the state fire 27554
marshal's fund to the ~~division of administration fund~~ credit of 27555
the highway safety fund created by section 4501.06 of the Revised 27556
Code and shall be subject to appropriation solely for the expense 27557
of operation and maintenance of the department of public safety. 27558

Sec. 3737.81. (A) There is hereby created the state fire 27559
commission consisting of ten members to be appointed by the 27560
governor with the advice and consent of the senate. The fire 27561
marshal or chief deputy fire marshal, a representative designated 27562
by the department of public safety who has tenure in fire 27563
suppression, and a representative designated by the board of 27564
building standards shall be ex officio members. Of the initial 27565
appointments made to the commission, two shall be for a term 27566
ending one year after November 1, 1978, two shall be for a term 27567
ending two years after that date, two shall be for a term ending 27568
three years after that date, two shall be for a term ending four 27569
years after that date, and two shall be for a term ending five 27570
years after that date. Thereafter, terms of office shall be for 27571

five years, each term ending on the same day of the same month of 27572
the year as did the term which it succeeds. Each member shall hold 27573
office from the date of appointment until the end of the term for 27574
which the member was appointed. Any member appointed to fill a 27575
vacancy occurring prior to the expiration of the term for which 27576
the member's predecessor was appointed shall hold office for the 27577
remainder of that term. Any member shall continue in office 27578
subsequent to the expiration date of the member's term until a 27579
successor takes office, or until a period of sixty days has 27580
elapsed, whichever occurs first. Members shall be qualified by 27581
experience and training to deal with the matters that are the 27582
responsibility of the commission. Two members shall be members of 27583
paid fire services, one shall be a member of volunteer fire 27584
services, two shall be mayors, managers, or members of legislative 27585
authorities of municipal corporations, one shall represent 27586
commerce and industry, one shall be a representative of a fire 27587
insurance company domiciled in this state, one shall represent the 27588
flammable liquids industry, one shall represent the construction 27589
industry, and one shall represent the public. At no time shall 27590
more than six members be members of or associated with the same 27591
political party. Membership on the commission shall not constitute 27592
holding a public office, and no person shall forfeit or otherwise 27593
vacate the person's office or position of employment because of 27594
membership on the commission. 27595

(B) The ex officio members may not vote, except that the fire 27596
marshal or chief deputy fire marshal may vote in case of a tie. 27597

(C) Each member of the commission, other than ex officio 27598
members, shall be paid an amount ~~equal to that payable under pay~~ 27599
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 27600
of the Revised Code, and the member's actual and necessary 27601
expenses. 27602

(D) The commission shall select a chairperson and a 27603

vice-chairperson from among its members. No business may be 27604
transacted in the absence of a quorum. A quorum shall be at least 27605
six members, excluding ex officio members, and shall include 27606
either the chairperson or vice-chairperson. The commission shall 27607
hold regular meetings at least once every two months and may meet 27608
at any other time at the call of the chairperson. 27609

(E) The fire marshal shall provide the commission with office 27610
space, meeting rooms, staff, and clerical assistance necessary for 27611
the commission to perform its duties. If the commission maintains 27612
the Ohio fire service hall of fame under division (C) of section 27613
3737.03 of the Revised Code, the fire marshal shall preserve, in 27614
an appropriate manner, in the office space or meeting rooms 27615
provided to the commission under this division or in another 27616
location, copies of all official commendations awarded to 27617
individuals recognized and commemorated for their exemplary 27618
accomplishments and acts of heroism at fire-related incidents or 27619
similar events that occurred in this state. 27620

(F) If the commission maintains the Ohio fire service hall of 27621
fame under division (C) of section 3737.03 of the Revised Code, 27622
the expenses incurred for the recognition and commemoration of 27623
individuals for their exemplary accomplishments and acts of 27624
heroism at fire-related incidents or similar events that occurred 27625
in this state, including, but not limited to, expenses for 27626
official commendations and an annual awards ceremony as described 27627
in division (C) of section 3737.03 of the Revised Code, may be 27628
paid from moneys appropriated by the general assembly for purposes 27629
of that recognition and commemoration, from moneys that are 27630
available to the fire marshal under this chapter, or from other 27631
funding sources available to the commission. 27632

Sec. 3737.88. (A)(1) The ~~fire marshal~~ superintendent of 27633
industrial compliance shall have responsibility for implementation 27634

of the underground storage tank program and corrective action 27635
program for releases from underground petroleum storage tanks 27636
established by the "Resource Conservation and Recovery Act of 27637
1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement 27638
the program, the ~~fire marshal~~ superintendent may adopt, amend, and 27639
rescind such rules, conduct such inspections, require annual 27640
registration of underground storage tanks, issue such citations 27641
and orders to enforce those rules, and perform such other duties, 27642
as are consistent with those programs. The ~~fire marshal~~ 27643
superintendent, by rule, may delegate the authority to conduct 27644
inspections of underground storage tanks to certified fire safety 27645
inspectors. 27646

(2) In the place of any rules regarding release containment 27647
and release detection for underground storage tanks adopted under 27648
division (A)(1) of this section, the ~~fire marshal~~ superintendent, 27649
by rule, shall designate areas as being sensitive for the 27650
protection of human health and the environment and adopt 27651
alternative rules regarding release containment and release 27652
detection methods for new and upgraded underground storage tank 27653
systems located in those areas. In designating such areas, the 27654
~~fire marshal~~ superintendent shall take into consideration such 27655
factors as soil conditions, hydrogeology, water use, and the 27656
location of public and private water supplies. Not later than July 27657
11, 1990, the ~~fire marshal~~ superintendent shall file the rules 27658
required under this division with the secretary of state, director 27659
of the legislative service commission, and joint committee on 27660
agency rule review in accordance with divisions (B) and (H) of 27661
section 119.03 of the Revised Code. 27662

(B) Before adopting any rule under this section or section 27663
3737.881 or 3737.882 of the Revised Code, the ~~fire marshal~~ 27664
superintendent shall file written notice of ~~his~~ the proposed rule 27665
with the ~~chairman~~ chairperson of the ~~state fire commission~~ board 27666

of building standards, and, within sixty days after notice is 27667
filed, the ~~commission~~ board may file responses to or comments on 27668
and may recommend alternative or supplementary rules to the ~~fire~~ 27669
~~marshal~~ superintendent. At the end of the sixty-day period or upon 27670
the filing of responses, comments, or recommendations by the 27671
~~commission~~ board, the ~~fire-marshal~~ superintendent may adopt the 27672
rule filed with the ~~commission~~ board or any alternative or 27673
supplementary rule recommended by the ~~commission~~ board. 27674

(C) The ~~fire-commission~~ board may recommend courses of action 27675
to be taken by the ~~fire-marshal~~ superintendent in carrying out ~~his~~ 27676
the superintendent's duties under this section. The ~~commission~~ 27677
board shall file its recommendations in the office of the ~~fire~~ 27678
~~marshal~~ superintendent, and, within sixty days after the 27679
recommendations are filed, the ~~fire-marshal~~ superintendent shall 27680
file with the ~~chairman~~ chairperson of the ~~commission~~ his board the 27681
superintendent's comments on, and proposed action in response to, 27682
the recommendations. 27683

(D) For the purpose of sections 3737.87 to 3737.89 of the 27684
Revised Code, the ~~fire-marshal~~ superintendent shall adopt, and may 27685
amend and rescind, rules identifying or listing hazardous 27686
substances. The rules shall be consistent with and equivalent in 27687
scope, coverage, and content to regulations identifying or listing 27688
hazardous substances adopted under the "Comprehensive 27689
Environmental Response, Compensation, and Liability Act of 1980," 27690
94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the ~~fire~~ 27691
~~marshal~~ superintendent shall not identify or list as a hazardous 27692
substance any hazardous waste identified or listed in rules 27693
adopted under division (A) of section 3734.12 of the Revised Code. 27694

(E) Notwithstanding any provision of the laws of this state 27695
to the contrary, the ~~fire-marshal~~ superintendent has exclusive 27696
jurisdiction to regulate the storage, treatment, and disposal of 27697
petroleum contaminated soil generated from corrective actions 27698

undertaken in response to releases of petroleum. The ~~fire marshal~~ 27699
superintendent may adopt, amend, or rescind such rules as ~~he~~ the 27700
superintendent considers to be necessary or appropriate to 27701
regulate the storage, treatment, or disposal of petroleum 27702
contaminated soil so generated. 27703

(F) The ~~fire marshal~~ superintendent shall adopt, amend, and 27704
rescind rules under sections 3737.88 to 3737.882 of the Revised 27705
Code in accordance with Chapter 119. of the Revised Code. 27706

Sec. 3737.881. (A) The ~~fire marshal~~ superintendent of 27707
industrial compliance shall certify underground storage tank 27708
systems installers who meet the standards for certification 27709
established in rules adopted under division (D)(1) of this 27710
section, pass the certification examination required by this 27711
division, and pay the certificate fee established in rules adopted 27712
under division (D)(5) of this section. Any individual who wishes 27713
to obtain certification as an installer shall apply to the ~~fire~~ 27714
~~marshal~~ superintendent on a form prescribed by the ~~fire marshal~~ 27715
superintendent. The application shall be accompanied by the 27716
application and examination fees established in rules adopted 27717
under division (D)(5) of this section. 27718

The ~~fire marshal~~ superintendent shall prescribe an 27719
examination designed to test the knowledge of applicants for 27720
certification as underground storage tank system installers in the 27721
installation, repair, abandonment, and removal of those systems. 27722
The examination shall also test the applicants' knowledge and 27723
understanding of the requirements and standards established in 27724
rules adopted under sections 3737.88 and 3737.882 of the Revised 27725
Code pertaining to the installation, repair, abandonment, and 27726
removal of those systems. 27727

Installer certifications issued under this division shall be 27728
renewed annually, upon submission of a certification renewal form 27729

prescribed by the ~~fire-marshal~~ superintendent, provision of proof 27730
of successful completion of continuing education requirements, and 27731
payment of the certification renewal fee established in rules 27732
adopted under division (D)(5) of this section. In addition, the 27733
~~fire-marshal~~ superintendent may from time to time prescribe an 27734
examination for certification renewal and may require applicants 27735
to pass the examination and pay the fee established for it in 27736
rules adopted under division (D)(5) of this section. 27737

The ~~fire-marshal~~ superintendent may, in accordance with 27738
Chapter 119. of the Revised Code, deny, suspend, revoke, or refuse 27739
to renew an installer's certification or renewal thereof ~~if he~~ 27740
~~finds~~ after finding that any of the following applies: 27741

(1) The applicant for certification or certificate holder 27742
fails to meet the standards for certification or renewal thereof 27743
under this section and rules adopted under it; 27744

(2) The certification was obtained through fraud or 27745
misrepresentation; 27746

(3) The certificate holder recklessly caused or permitted a 27747
person under ~~his~~ the certificate holder's supervision to install, 27748
perform major repairs on site to, abandon, or remove an 27749
underground storage tank system in violation of the performance 27750
standards set forth in rules adopted under section 3737.88 or 27751
3737.882 of the Revised Code. 27752

As used in division (A)(3) of this section, "recklessly" has 27753
the same meaning as in section 2901.22 of the Revised Code. 27754

(B) The ~~fire-marshal~~ superintendent shall certify persons who 27755
sponsor training programs for underground storage tank system 27756
installers who meet the criteria for certification established in 27757
rules adopted by the ~~fire-marshal~~ superintendent under division 27758
(D)(4) of this section and pay the certificate fee established in 27759
rules adopted under division (D)(5) of this section. Any person 27760

who wishes to obtain certification to sponsor such a training 27761
program shall apply to the ~~fire-marshal~~ superintendent on a form 27762
prescribed by ~~him~~ the superintendent. Training program 27763
certificates issued under this division shall expire annually. 27764
Upon submission of a certification renewal application form 27765
prescribed by the ~~fire-marshal~~ superintendent and payment of the 27766
application and certification renewal fees established in rules 27767
adopted under division (D)(5) of this section, the ~~fire-marshal~~ 27768
superintendent shall issue a training program renewal certificate 27769
to the applicant. 27770

The ~~fire-marshal~~ superintendent may, in accordance with 27771
Chapter 119. of the Revised Code, deny an application for, 27772
suspend, or revoke a training program certificate or renewal 27773
thereof ~~if he finds~~ after finding that the training program does 27774
not or will not meet the standards for certification established 27775
in rules adopted under division (D)(4) of this section. 27776

(C) The ~~fire-marshal~~ superintendent may conduct or cause to 27777
be conducted training programs for underground storage tank 27778
systems installers as ~~he~~ the superintendent considers to be 27779
necessary or appropriate. The ~~fire-marshal~~ superintendent is not 27780
subject to division (B) of this section with respect to training 27781
programs conducted by employees of the office of the ~~fire-marshal~~ 27782
superintendent. 27783

(D) The ~~fire-marshal~~ superintendent shall adopt, and may 27784
amend and rescind, rules doing all of the following: 27785

(1) Defining the activities that constitute supervision over 27786
the installation, performance of major repairs on site to, 27787
abandonment of, and removal of underground storage tank systems; 27788

(2) Establishing standards and procedures for certification 27789
of underground storage tank systems installers; 27790

(3) Establishing standards and procedures for continuing 27791

education for certification renewal;	27792
(4) Establishing standards and procedures for certification of training programs for installers;	27793 27794
(5) Establishing fees for applications for certifications under this section, the examinations prescribed under division (A) of this section, the issuance and renewal of certificates under divisions (A) and (B) of this section, and attendance at training programs conducted by the fire marshal <u>superintendent</u> under division (C) of this section. Fees received under this section shall be credited to the underground storage tank administration fund created in section 3737.02 of the Revised Code and shall be used to defray the costs of implementing, administering, and enforcing this section and the rules adopted thereunder, conducting training sessions, and facilitating prevention of releases.	27795 27796 27797 27798 27799 27800 27801 27802 27803 27804 27805 27806
(6) That are necessary or appropriate for the implementation, administration, and enforcement of this section.	27807 27808
(E) Nothing in this section or the rules adopted under it prohibits an owner or operator of an underground storage tank system from installing, making major repairs on site to, abandoning, or removing an underground storage tank system under the supervision of an installer certified under division (A) of this section who is a full-time or part-time employee of the owner or operator.	27809 27810 27811 27812 27813 27814 27815
(F) On and after the date one hundred eighty days after the effective date of this section <u>January 7, 1990</u> , no person shall do any of the following:	27816 27817 27818
(1) Install, make major repairs on site to, abandon, or remove an underground storage tank system unless the activity is performed under the supervision of a qualified individual who holds a valid installer certificate issued under division (A) of	27819 27820 27821 27822

this section; 27823

(2) Act in the capacity of providing supervision for the 27824
installation of, performance of major repairs on site to, 27825
abandonment of, or removal of an underground storage tank system 27826
unless the person holds a valid installer certificate issued under 27827
division (A) of this section; 27828

(3) Except as provided in division (C) of this section, 27829
sponsor a training program for underground storage tank systems 27830
installers unless the person holds a valid training program 27831
certificate issued under division (B) of this section. 27832

Sec. 3737.882. (A) If, after an examination or inspection, 27833
the ~~fire marshal~~ superintendent of industrial compliance or ~~an~~ the 27834
superintendent's assistant ~~fire marshal~~ finds that a release of 27835
petroleum is suspected, the ~~fire marshal~~ superintendent shall take 27836
such action as the ~~fire marshal~~ superintendent considers necessary 27837
to ensure that a suspected release is confirmed or disproved and, 27838
if the occurrence of a release is confirmed, to correct the 27839
release. These actions may include one or more of the following: 27840

(1) Issuance of a citation and order requiring the 27841
responsible person to undertake, in a manner consistent with the 27842
requirements of section 9003 of the "Resource Conservation and 27843
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as 27844
amended, applicable regulations adopted thereunder, and rules 27845
adopted under division (B) of this section, such actions as are 27846
necessary to protect human health and the environment, including, 27847
without limitation, the investigation of a suspected release. 27848

(2) Requesting the attorney general to bring a civil action 27849
for appropriate relief, including a temporary restraining order or 27850
preliminary or permanent injunction, in the court of common pleas 27851
of the county in which a suspected release is located or in which 27852
the release occurred, to obtain the corrective action necessary to 27853

protect human health and the environment. In granting any such relief, the court shall ensure that the terms of the temporary restraining order or injunction are sufficient to provide comprehensive corrective action to protect human health and the environment.

(3) Entry onto premises and undertaking corrective action with respect to a release of petroleum if, in the ~~fire marshal's~~ superintendent's judgment, such action is necessary to protect human health and the environment. Any corrective action undertaken by the ~~fire marshal~~ superintendent or the superintendent's assistant ~~fire marshal~~ under division (A)(3) of this section shall be consistent with the requirements of sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section.

(B) The ~~fire marshal~~ superintendent shall adopt, and may amend and rescind, such rules as the ~~fire marshal~~ superintendent considers necessary to establish standards for corrective actions for suspected and confirmed releases of petroleum and standards for the recovery of costs incurred for undertaking corrective or enforcement actions with respect to such releases. The rules also shall include requirements for financial responsibility for the cost of corrective actions for and compensation of bodily injury and property damage incurred by third parties that are caused by releases of petroleum. Rules regarding financial responsibility shall, without limitation, require responsible persons to provide evidence that the parties guaranteeing payment of the deductible amount established under division (E) or (F) of section 3737.91 of the Revised Code are, at a minimum, secondarily liable for all corrective action and third-party liability costs incurred within the scope of the deductible amount. The rules shall be consistent

with sections 9003 and 9005 of the "Resource Conservation and 27886
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 27887
Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and 27888
applicable regulations adopted thereunder. 27889

(C)(1) No person shall violate or fail to comply with a rule 27890
adopted under division (A) of section 3737.88 of the Revised Code 27891
or division (B) of this section, and no person shall violate or 27892
fail to comply with the terms of any order issued under division 27893
(A) of section 3737.88 of the Revised Code or division (A)(1) of 27894
this section. 27895

(2) Whoever violates division (C)(1) of this section or 27896
division (F) of section 3737.881 of the Revised Code shall pay a 27897
civil penalty of not more than ten thousand dollars for each day 27898
that the violation continues. The ~~fire marshal~~ superintendent may, 27899
by order, assess a civil penalty under this division, or the ~~fire~~ 27900
~~marshal~~ superintendent may request the attorney general to bring a 27901
civil action for imposition of the civil penalty in the court of 27902
common pleas of the county in which the violation occurred. If the 27903
~~fire marshal~~ superintendent determines that a responsible person 27904
is in violation of division (C)(1) of this section or division (F) 27905
of section 3737.881 of the Revised Code, the ~~fire marshal~~ 27906
superintendent may request the attorney general to bring a civil 27907
action for appropriate relief, including a temporary restraining 27908
order or preliminary or permanent injunction, in the court of 27909
common pleas of the county in which the underground storage tank 27910
or, in the case of a violation of division (F)(3) of section 27911
3737.881 of the Revised Code, the training program that is the 27912
subject of the violation is located. The court shall issue a 27913
temporary restraining order or an injunction upon a demonstration 27914
that a violation of division (C)(1) of this section or division 27915
(F) of section 3737.881 of the Revised Code has occurred or is 27916
occurring. 27917

Any action brought by the attorney general under this 27918
division is a civil action, governed by the Rules of Civil 27919
Procedure and other rules of practice and procedure applicable to 27920
civil actions. 27921

(D) Orders issued under division (A) of section 3737.88 of 27922
the Revised Code and divisions (A)(1) and (C) of this section, and 27923
appeals thereof, are subject to and governed by Chapter 3745. of 27924
the Revised Code. Such orders shall be issued without the 27925
necessity for issuance of a proposed action under that chapter. 27926
For purposes of appeals of any such orders, the term "director" as 27927
used in Chapter 3745. of the Revised Code includes the ~~fire~~ 27928
~~marshal~~ superintendent and ~~an~~ the superintendent's assistant ~~fire~~ 27929
~~marshal~~. 27930

(E) Any restrictions on the use of real property for the 27931
purpose of achieving applicable standards pursuant to rules 27932
adopted under division (B) of this section shall be contained in a 27933
deed or in another instrument that is signed and acknowledged by 27934
the property owner in the same manner as a deed. The deed or other 27935
instrument containing the restrictions shall be filed and recorded 27936
in the office of the county recorder of the county in which the 27937
property is located. Pursuant to Chapter 5309. of the Revised 27938
Code, such use restrictions in connection with registered land, as 27939
defined in section 5309.01 of the Revised Code, shall be entered 27940
as a memorial on the page of the register where the title of the 27941
owner is registered. 27942

Sec. 3737.883. On receipt of a notice pursuant to section 27943
3123.43 of the Revised Code, the ~~state fire marshal~~ superintendent 27944
of industrial compliance shall comply with sections 3123.41 to 27945
3123.50 of the Revised Code and any applicable rules adopted under 27946
section 3123.63 of the Revised Code with respect to a certificate 27947
issued pursuant to section 3737.34, 3737.65, 3737.83, or 3737.881 27948

of the Revised Code. 27949

Sec. 3737.89. (A) Except when a responsible person can prove 27950
that a release of petroleum was caused solely by any one or a 27951
combination of an act of God, an act of war, or an act or omission 27952
of a third party without regard to whether any such act or 27953
omission was or was not negligent, a responsible person, 27954
notwithstanding any other provision of the Revised Code or common 27955
law of this state, is strictly liable to the state for any costs 27956
incurred for any corrective or enforcement action undertaken by 27957
the ~~fire-marshal~~ superintendent of industrial compliance under 27958
section 3737.882 of the Revised Code and for any costs incurred 27959
for any enforcement action undertaken by the attorney general 27960
under this section or section 3737.882 of the Revised Code with 27961
respect to a release of petroleum. 27962

The attorney general, upon the request of the ~~fire-marshal~~ 27963
superintendent, shall bring a civil action to recover those costs 27964
in the court of common pleas of the county in which the corrective 27965
or enforcement action was undertaken. 27966

(B) If a responsible person alleges that a release of 27967
petroleum was caused solely by an act or omission of a third party 27968
or was caused solely by such an act or omission in combination 27969
with an act of God or an act of war, the responsible person shall 27970
pay to the state the cost of any corrective or enforcement action 27971
undertaken by the ~~fire-marshal~~ superintendent under section 27972
3737.882 of the Revised Code and any enforcement action undertaken 27973
by the attorney general under this section or section 3737.882 of 27974
the Revised Code with respect to the release and is entitled by 27975
subrogation to all rights of the state to recover those costs from 27976
the third party under division (C) of this section. The attorney 27977
general, upon the request of the ~~fire-marshal~~ superintendent, 27978
shall bring a civil action to recover payment from the responsible 27979

party for those costs in the court of common pleas of the county 27980
in which the corrective or enforcement action was undertaken. 27981

(C) If the responsible person proves that a release of 27982
petroleum was caused solely by an act or omission of a third party 27983
or by such an act or omission in combination with an act of God or 27984
an act of war, the third party, notwithstanding any other 27985
provision of the Revised Code or common law of this state, is 27986
strictly liable to the state for any costs incurred for any 27987
corrective or enforcement action undertaken by the ~~fire marshal~~ 27988
superintendent under section 3737.882 of the Revised Code and for 27989
any enforcement action undertaken by the attorney general under 27990
this section or section 3737.882 of the Revised Code with respect 27991
to the release. The attorney general, upon the request of the ~~fire~~ 27992
~~marshal~~ superintendent or any person entitled by subrogation to 27993
the rights of the state under division (B) of this section, may 27994
bring a civil action to recover those costs in the court of common 27995
pleas of the county in which the corrective or enforcement action 27996
was undertaken. 27997

(D) No indemnification, hold harmless, or similar agreement 27998
or conveyance shall be effective to transfer from the responsible 27999
person, or from any other person who may be liable under division 28000
(C) of this section, to another person the liability imposed by 28001
this section. Nothing in this division bars either of the 28002
following: 28003

(1) Any agreement to insure, hold harmless, or indemnify a 28004
party to such an agreement for any liability under this section; 28005

(2) A cause of action that any person has or would have 28006
against any other person by reason of subrogation or otherwise. 28007

(E) Nothing in this section limits the duty of a responsible 28008
person under section 3737.882 of the Revised Code and rules 28009
adopted under it to notify the fire marshal and to take action 28010

with respect to a release of petroleum. 28011

(F) Nothing in this section limits the right of the federal 28012
government to recover from the responsible person any federal 28013
money expended for any corrective or enforcement action as a 28014
result of a release of petroleum. 28015

Sec. 3737.91. (A) There is hereby created the petroleum 28016
underground storage tank financial assurance fund, which shall be 28017
in the custody of the treasurer of state, but is not a part of the 28018
state treasury. The fund shall consist of moneys from the 28019
following sources: 28020

(1) All fees collected under divisions (B) and (F) of this 28021
section and all supplemental fees collected under division (C) of 28022
this section; 28023

(2) Interest earned on moneys in the fund; 28024

(3) Appropriations to the fund from the general revenue fund; 28025

(4) The proceeds of revenue bonds issued under sections 28026
3737.90 to 3737.948 of the Revised Code, provided that upon 28027
resolution of the petroleum underground storage tank release 28028
compensation board created in section 3737.90 of the Revised Code, 28029
all or part of those proceeds may be deposited into a separate 28030
account of the fund. Chapters 131. and 135. of the Revised Code do 28031
not apply to the establishment, deposit, investment, application, 28032
and safeguard of any such account and moneys in any such account. 28033

(B) For the purposes of paying the costs of implementing and 28034
administering this section and sections 3737.90 and 3737.92 of the 28035
Revised Code and rules adopted under them; payment or 28036
reimbursement of corrective action costs under section 3737.92 of 28037
the Revised Code; compensating third parties for bodily injury or 28038
property damage under that section; and payment of principal and 28039
interest on revenue bonds issued under sections 3737.90 to 28040

3737.948 of the Revised Code to raise capital for the fund, there 28041
is hereby assessed an annual petroleum underground storage tank 28042
financial assurance fee on each tank comprising an underground 28043
storage tank or an underground storage tank system that contains 28044
or has contained petroleum and for which a responsible person is 28045
required to demonstrate financial responsibility by rules adopted 28046
by the ~~fire marshal~~ superintendent of industrial compliance under 28047
division (B) of section 3737.882 of the Revised Code. The fee 28048
assessed by this division shall be paid to the board by a 28049
responsible person for each tank that is subject to the fee. The 28050
fee shall be paid not later than the first day of July of each 28051
year, except that in 1989 the fee shall be paid by either the 28052
first day of September or ninety days after July 11, 1989, 28053
whichever is later. The fee is in addition to any fee established 28054
by the ~~fire marshal~~ superintendent under section 3737.88 of the 28055
Revised Code. 28056

The amount of the annual fee due in 1989 and 1990 is one 28057
hundred fifty dollars per tank per year. In 1991 and subsequent 28058
years the board shall establish the amount of the annual fee in 28059
accordance with this division. Not later than the first day of 28060
April of 1991 and each subsequent year, the board, in consultation 28061
with the administrative agent of the fund with whom the board has 28062
entered into a contract under division (B)(3) of section 3737.90 28063
of the Revised Code, if any, shall determine the amount of the 28064
annual fee to be assessed in that year and shall adopt rules in 28065
accordance with Chapter 119. of the Revised Code to establish the 28066
fee at that amount. The fee shall be established at an amount 28067
calculated to maintain the continued financial soundness of the 28068
fund, provided that if the unobligated balance of the fund exceeds 28069
forty-five million dollars on the date that an annual 28070
determination is made, the board may assess a fee in the year to 28071
which the determination applies only to the extent required in or 28072
by, or necessary to comply with covenants or other requirements 28073

in, revenue bonds issued under sections 3737.90 to 3737.948 of the 28074
Revised Code or in proceedings or other covenants or agreements 28075
related to such bonds. Not later than the first day of May of 1991 28076
and each subsequent year, the board shall notify each responsible 28077
person by certified mail of the amount of the annual fee per tank 28078
due in that year. As used in this paragraph, "proceedings" has the 28079
same meaning as in section 133.01 of the Revised Code. 28080

If a responsible person is both the owner and operator of a 28081
tank, the responsible person shall pay any annual fee assessed 28082
under this division in compliance with this division and the rules 28083
adopted thereunder. If the owner of the tank and the operator of 28084
the tank are not the same person, any annual fee assessed under 28085
this division in compliance with this division and the rules 28086
adopted thereunder shall be paid by one of the responsible 28087
persons; however, all such responsible persons are liable for 28088
noncompliance with this division. 28089

(C) As necessary to maintain the financial soundness of the 28090
fund, the board, by rules adopted in accordance with Chapter 119. 28091
of the Revised Code, may at any time assess a supplemental 28092
petroleum underground storage tank financial assurance fee on 28093
tanks subject to the fee assessed under division (B) or (F) of 28094
this section in any fiscal year in which the board finds that the 28095
unobligated balance in the fund is less than fifteen million 28096
dollars. The board, in consultation with the fund's administrative 28097
agent, if any, shall establish the amount of the supplemental fee 28098
at an amount that will ensure an unobligated balance in the fund 28099
of at least fifteen million dollars at the end of the fiscal year 28100
in which the supplemental fee is assessed. Not less than thirty 28101
days before the date on which payment of the supplemental fee is 28102
due under the board's rules, the board shall notify each 28103
responsible person by certified mail of the amount of the 28104
supplemental fee and the date on which payment of the supplemental 28105

fee to the board is due. 28106

If a responsible person is both the owner and operator of a 28107
tank, the responsible person shall pay any supplemental fee 28108
assessed under this division in compliance with this division and 28109
the rules adopted thereunder. If the owner of the tank and the 28110
operator of the tank are not the same person, any supplemental fee 28111
assessed under this division in compliance with this division and 28112
the rules adopted thereunder shall be paid by one of the 28113
responsible persons; however, all such responsible persons are 28114
liable for noncompliance with this division. 28115

(D)(1) The board shall issue a certificate of coverage to any 28116
responsible person who has complied with all of the following: 28117

(a) Paid the fee assessed under division (B) or (F) of this 28118
section; 28119

(b) Demonstrated to the board financial responsibility in 28120
compliance with the rules adopted by the ~~fire marshal~~ 28121
superintendent under division (B) of section 3737.882 of the 28122
Revised Code for the deductible amount established under division 28123
(E) of this section or, when appropriate, the reduced deductible 28124
amount established under division (F) of this section. If the 28125
responsible person utilizes self-insurance as a financial 28126
responsibility mechanism, the responsible person shall provide the 28127
board with an affidavit in which the responsible party certifies 28128
that all documentation submitted to the board is true and 28129
accurate; 28130

(c) Certified to the board that for each petroleum 28131
underground storage tank system for which a certificate of 28132
coverage is sought, the responsible person is in compliance with 28133
applicable rules for petroleum underground storage tank systems 28134
that have been adopted by the ~~fire marshal~~ superintendent under 28135
section 3737.88 of the Revised Code. 28136

The certificate of coverage shall state the amount of 28137
coverage to which the responsible person is entitled from the fund 28138
pursuant to division (D)(3) of this section and the time period 28139
for which the certificate provides that coverage. An issued 28140
certificate of coverage is subject to the condition that the 28141
holder timely pay any supplemental fee assessed under division (C) 28142
of this section during the time that the certificate is in effect. 28143

(2) The board shall not issue a certificate of coverage to 28144
any responsible person who fails to comply with divisions 28145
(D)(1)(a), (b), and (c) of this section. 28146

(3) The maximum disbursement from the fund for any single 28147
release of petroleum is the difference between the deductible 28148
amount established under division (E) of this section or, when 28149
appropriate, the reduced deductible amount established under 28150
division (F) of this section and one million dollars. The maximum 28151
disbursement from the fund during any fiscal year on behalf of any 28152
responsible person shall not exceed in the aggregate one million 28153
dollars less the deductible amount if the responsible person owns 28154
or operates not more than one hundred tanks comprising underground 28155
petroleum storage tanks or underground petroleum storage tank 28156
systems, shall not exceed in the aggregate two million dollars 28157
less the deductible amount if the responsible person owns or 28158
operates not more than two hundred such tanks, shall not exceed in 28159
the aggregate three million dollars less the deductible amount if 28160
the responsible person owns or operates not more than three 28161
hundred such tanks, and shall not exceed in the aggregate four 28162
million dollars less the deductible amount if the responsible 28163
person owns or operates more than three hundred such tanks. The 28164
maximum disbursement from the fund for any single release or for 28165
any fiscal year under this division does not in any manner limit 28166
the liability of a responsible person for a release of petroleum. 28167

(E)(1) Except as otherwise provided in division (F) of this 28168

section, no responsible person is eligible to receive moneys from 28169
the fund under section 3737.92 of the Revised Code until the 28170
responsible person demonstrates to the board financial 28171
responsibility for the first fifty thousand dollars of the cost 28172
for corrective action for, and compensating third parties for 28173
bodily injury and property damage caused by, accidental releases 28174
of petroleum from an underground storage tank owned or operated by 28175
the responsible party. The fifty thousand dollar amount is the 28176
deductible amount for the purposes of this section and section 28177
3737.92 of the Revised Code. 28178

(2) The board, in consultation with the fund's administrative 28179
agent, if any, may, by rules adopted in accordance with Chapter 28180
119. of the Revised Code, establish for any fiscal year a 28181
deductible amount that differs from fifty thousand dollars. The 28182
deductible amount established by the board shall be such an amount 28183
as to maintain the financial soundness of the fund. Any action of 28184
the board to establish a differing deductible amount or to alter a 28185
deductible amount previously established by it shall be taken 28186
concurrently with the establishment under division (B) of this 28187
section of the annual fee due on the first day of the fiscal year 28188
in which the deductible amount will apply. If the deductible 28189
amount established under this division differs from that in effect 28190
at the time of the board's action, the board shall notify each 28191
responsible person of the change by certified mail not later than 28192
the first day of May preceding the effective date of the change. 28193

(F)(1) Any responsible person owning, or owning or operating, 28194
a total of six or fewer petroleum underground storage tanks may 28195
elect in calendar years 1989 and 1990 to pay twice the amount of 28196
the per tank annual fee for each tank assessed under division (B) 28197
of this section in order to reduce the amount of the deductible 28198
established in division (E) of this section to the total amount of 28199
ten thousand dollars. The election shall be available only at the 28200

time of the payment of the annual fee and any supplemental fee. 28201

The election shall not be retroactively applied. 28202

(2) Any responsible person owning, or owning or operating, a 28203

total of six or fewer petroleum underground storage tanks may 28204

elect in calendar year 1991 and in each subsequent year to pay an 28205

additional fee at an amount established by the board in addition 28206

to the per tank annual fee assessed under division (B) of this 28207

section in order to reduce the deductible amount established under 28208

division (E) of this section. In calendar year 1991 and in each 28209

subsequent year, the board shall establish the amount of the 28210

additional fee and the reduced deductible amount. In determining 28211

the amount of the additional fee and the reduced deductible 28212

amount, the board shall take into consideration the effect of the 28213

additional claims paid under section 3737.92 of the Revised Code 28214

to responsible persons making an election under division (F)(2) of 28215

this section and balance that consideration with such factors as 28216

the availability of liability insurance, the difficulty of proving 28217

financial responsibility pursuant to the rules adopted by the ~~fire~~ 28218

~~marshal~~ superintendent under division (B) of section 3737.882 of 28219

the Revised Code, and the hardship created on small owners and 28220

operators of petroleum underground storage tanks by an increase in 28221

either the additional fee or the reduced deductible amount. 28222

(3) Any responsible person owning, or owning or operating, a 28223

total of six or fewer petroleum underground storage tanks who 28224

elects to pay the additional fee under divisions (F)(1) and (2) of 28225

this section shall pay any per tank supplemental fee assessed 28226

under division (C) of this section. 28227

(G) If the director of the fund determines that a responsible 28228

person has failed to comply with division (B), (C), or (F) of this 28229

section, the director of the fund shall notify each responsible 28230

person for the petroleum underground storage tank of the 28231

noncompliance. If, within thirty days after the notification, the 28232

responsible person fails to pay the applicable fee or any fee 28233
previously assessed upon the responsible person under this 28234
section, the director of the fund shall issue an order requiring 28235
the responsible person to pay all of the fees the responsible 28236
person owes to the fund and an additional late payment fee in the 28237
amount of one thousand dollars to the fund. 28238

If a responsible person fails to comply with any order of the 28239
director of the fund within thirty days after the issuance of the 28240
order, the director shall notify the ~~fire-marshal~~ superintendent 28241
of that noncompliance. Upon the request of the director of the 28242
fund, the attorney general may bring a civil action for 28243
appropriate relief, including a temporary restraining order or 28244
preliminary or permanent injunction, in the court of common pleas 28245
of the county in which the petroleum underground storage tank that 28246
is the subject of the order is located. The court shall issue an 28247
injunction upon a demonstration that a failure to comply with the 28248
director's order has occurred or is occurring. 28249

Any orders issued by the director of the fund under this 28250
division may be appealed by the responsible person under division 28251
(F) of section 3737.92 of the Revised Code. For the purpose of an 28252
appeal of any order of the director of the fund, "determination" 28253
as used in that division includes any order of the director of the 28254
fund. The filing of a notice of appeal under this division does 28255
not operate as a stay of any order of the director of the fund. 28256

Sec. 3737.92. (A) The petroleum underground storage tank 28257
release compensation board created in section 3737.90 of the 28258
Revised Code shall use moneys in the petroleum underground storage 28259
tank financial assurance fund established in section 3737.91 of 28260
the Revised Code exclusively for the following purposes: 28261

- (1) Payment of the expenses of administering the fund; 28262
- (2) Payment of the administrative expenses of the board; 28263

(3) Payment to or reimbursement of responsible persons for 28264
the necessary cost of corrective action for and compensating third 28265
parties for bodily injury and property damage caused by accidental 28266
releases of petroleum in accordance with this section, provided 28267
that proceeds from the issuance of revenue bonds under sections 28268
3737.90 to 3737.948 of the Revised Code may only be used for the 28269
payment to or reimbursement of responsible persons for the 28270
necessary costs of corrective action for improving property 28271
damaged by accidental releases of petroleum in accordance with 28272
this section; 28273

(4) Deposit into any funds provided for in a resolution or 28274
resolutions of the board in connection with any revenue bonds 28275
issued under sections 3737.90 to 3737.948 of the Revised Code; 28276

(5) Placement of petroleum underground storage tank linked 28277
deposits under sections 3737.95 to 3737.98 of the Revised Code. 28278

(B) A responsible person seeking to obtain from the fund 28279
payment of or reimbursement for corrective action costs for an 28280
accidental release of petroleum shall submit a claim to the board 28281
in accordance with and containing the information required by 28282
rules adopted by the board in accordance with Chapter 119. of the 28283
Revised Code. Before authorizing any disbursement from the fund to 28284
pay all or any portion of a claim submitted under this division, 28285
the director of the fund shall first determine that the claim 28286
meets all of the following criteria: 28287

(1) The responsible person is eligible under division (D) of 28288
this section to receive payment of or reimbursement for the 28289
corrective action costs from the fund; 28290

(2) The corrective action performed or to be performed has 28291
been authorized by the ~~fire marshal~~ superintendent of industrial 28292
compliance under section 3737.882 of the Revised Code and rules 28293
adopted under that section; 28294

(3) The costs of performing the corrective action are 28295
necessary to comply with the rules of the ~~fire marshal~~ 28296
superintendent adopted under sections 3737.88 and 3737.882 of the 28297
Revised Code governing corrective actions. 28298

(C) A responsible person seeking to obtain from the fund 28299
payment of or reimbursement for compensation paid or to be paid to 28300
third parties for bodily injury or property damage caused by an 28301
accidental release of petroleum shall submit a claim to the board 28302
in accordance with and containing the information required by 28303
rules adopted by the board in accordance with Chapter 119. of the 28304
Revised Code. Before authorizing any disbursement from the fund to 28305
pay all or any portion of a claim submitted under this division, 28306
the director of the fund shall first determine that the claim 28307
meets both of the following criteria: 28308

(1) The responsible person who submitted the claim is 28309
eligible under division (D) of this section to receive payment of 28310
or reimbursement for the third-party compensation from the fund; 28311

(2) There is a legally enforceable judgment against the 28312
responsible person for bodily injury or property damage to one or 28313
more third parties resulting from the release in the amount stated 28314
in the claim, or, if there is a settlement with a third party as a 28315
result of the release, the amount of the settlement stated in the 28316
claim is reasonable. 28317

(D) A responsible person is not eligible to receive payment 28318
or reimbursement from the fund under division (B) or (C) of this 28319
section unless all of the following conditions are met: 28320

(1) At the time that the release was first suspected or 28321
confirmed, a responsible person possessed a valid certificate of 28322
coverage issued by the board under division (D) of section 3737.91 28323
of the Revised Code for the petroleum underground storage tank 28324
system from which the release occurred; 28325

- (2) One of the following applies: 28326
- (a) The petroleum underground storage tank system from which 28327
the release occurred was registered in compliance with rules 28328
adopted by the ~~fire marshal~~ superintendent under section 3737.88 28329
of the Revised Code when the occurrence of the release was first 28330
suspected or confirmed; 28331
- (b) The ~~fire marshal~~ superintendent has recommended that 28332
payment or reimbursement be made because good cause existed for 28333
the responsible person's failure to have so registered the 28334
petroleum underground storage tank system, and the responsible 28335
person has registered the petroleum underground storage tank 28336
system with the ~~fire marshal~~ superintendent and paid all back 28337
registration fees payable under those rules for registration of 28338
the system from the time the responsible person should have, but 28339
failed to register the system. 28340
- (3) The ~~fire marshal~~ superintendent has determined that, when 28341
the claim was filed, a responsible person was in compliance with 28342
all orders issued under sections 3737.88 and 3737.882 of the 28343
Revised Code regarding the petroleum underground storage tank 28344
system from which the release occurred; 28345
- (4) A responsible person demonstrates financial 28346
responsibility for the deductible amount applicable under section 28347
3737.91 of the Revised Code for the petroleum underground storage 28348
tank system from which the release has occurred; 28349
- (5) The responsible person has not falsified any attestation 28350
contained on a registration application required by rules adopted 28351
under section 3737.88 of the Revised Code; 28352
- (6) The petroleum underground storage tank system from which 28353
the release occurred was in compliance with rules, other than 28354
rules regarding registration, adopted by the ~~fire marshal~~ 28355
superintendent under section 3737.88 of the Revised Code when the 28356

occurrence of the release was first suspected or confirmed. 28357

(E) The director of the fund may make a determination to 28358
approve or disapprove a claim and to authorize a disbursement from 28359
the fund for payment of an approved claim administratively without 28360
a hearing. If the director of the fund makes a determination 28361
regarding a claim that is inconsistent with a recommendation or 28362
determination of the ~~fire-marshal~~ superintendent for purposes of 28363
division (B)(2) or (3) or (D)(2), (3), or (5) of this section, the 28364
director shall detail those inconsistencies in a written finding 28365
of fact before authorizing any disbursement from the fund for 28366
payment of the claim. Upon making a determination of a claim under 28367
this section, the director of the fund shall provide written 28368
notice of the determination and a copy of any written finding of 28369
fact accompanying the determination to the responsible person who 28370
submitted the claim and to the ~~fire-marshal~~ superintendent. 28371

(F) If the responsible person who submitted a claim under 28372
this section or the ~~fire-marshal~~ superintendent objects to the 28373
determination of the claim made by the director of the fund and 28374
files an objection to the determination with the board within 28375
thirty days after the mailing of the notification of the 28376
determination and finding of fact, if any, the board shall appoint 28377
a referee to conduct an adjudication hearing on the determination. 28378
The adjudication hearing shall be conducted in accordance with 28379
section 119.09 of the Revised Code. For the purposes of 28380
adjudication hearings on determinations of the director of the 28381
fund, the term "agency" as used in that section includes the 28382
board. 28383

If any party is aggrieved by an order of the board made after 28384
the adjudication hearing on the determination, the party may 28385
appeal the order in accordance with section 119.12 of the Revised 28386
Code. For the purposes of appeals of any such orders, the ~~terms~~ 28387
~~"fire-marshal"~~ and term "building" as used in that section ~~include~~ 28388

~~the board and~~ includes the petroleum underground storage tank,
respectively. 28389
28390

(G) Neither the state, the board, nor the director of the 28391
fund is liable to any responsible person to pay the cost of any 28392
corrective action or of third party compensation for a release of 28393
petroleum when the fund is depeleted of moneys because the amount 28394
of the claims made on the fund exceeds the unobligated balance in 28395
the fund. However, upon assessing and collecting a supplemental 28396
fee under division (C) of section 3737.91 of the Revised Code, the 28397
board shall again consider the claim of a responsible person whose 28398
claim was not initially honored because of the insufficiency of 28399
unobligated balances in the fund to pay that person's claim. 28400

The inability of a responsible person to obtain money from 28401
the fund does not in any manner limit the liability of a 28402
responsible person for a release of petroleum. 28403

(H) Neither the right to apply for payment or reimbursement 28404
nor the receipt of payment or reimbursement under this section 28405
limits the liability of any responsible person to the state for 28406
the payment of any corrective action or enforcement costs under 28407
sections 3737.882 and 3737.89 of the Revised Code, or to any third 28408
party for bodily injury or property damage, resulting from a 28409
release of petroleum from an underground storage tank system owned 28410
or operated by the responsible person. Neither the right to apply 28411
for payment or reimbursement under this section nor any delay by 28412
the board or director of the fund in acting upon any claim for any 28413
such payment or reimbursement limits or postpones the duty of any 28414
responsible person to comply with any order of the ~~fire marshal~~ 28415
superintendent issued under section 3737.88 or 3737.882 of the 28416
Revised Code. 28417

(I) The board, upon payment to or reimbursement of a 28418
responsible person from the fund for corrective action costs or 28419
the cost of compensation to third parties for bodily injury or 28420

property damage, is entitled by subrogation to all rights of the 28421
responsible person to recover those costs from any other person. 28422
The attorney general, upon the request of the board, may bring a 28423
civil action to recover those costs in the court of common pleas 28424
of the county in which the release of petroleum occurred. 28425

(J) Nothing in this section limits the right of the federal 28426
government to recover from the responsible person any federal 28427
money expended for any corrective or enforcement action as a 28428
result of a release of petroleum. 28429

(K) If the responsible person described in division (D) of 28430
this section is a state agency, any payments or reimbursements 28431
received by the state agency under this section shall be deposited 28432
into the fund from which the expenditures for the corrective 28433
action or third party compensation originally were made. 28434

Sec. 3737.98. (A) Upon placement of a petroleum underground 28435
storage tank linked deposit with an eligible lending institution, 28436
the institution shall lend the funds to each approved eligible 28437
owner listed in the petroleum underground storage tank linked 28438
deposit loan package required by division (D) of section 3737.96 28439
of the Revised Code and in accordance with the linked deposit 28440
agreement required by division (C) of section 3737.97 of the 28441
Revised Code. The loan shall be at a rate below the present 28442
borrowing rate determined in the agreement with the petroleum 28443
underground storage tank release compensation board applicable to 28444
each eligible owner. A certificate of compliance with this 28445
section, in the form and manner prescribed by the board, shall be 28446
required for the eligible lending institution. The borrowing rate 28447
set by the agreement shall be uniform and may not be revised 28448
during the period of the deposit. 28449

(B) The board shall take any and all steps necessary to 28450
implement the petroleum underground storage tank linked deposit 28451

program and to monitor the compliance of eligible lending 28452
institutions and eligible owners, including the development of 28453
guidelines for those purposes as necessary. 28454

(C) The board and the ~~fire marshal~~ superintendent of 28455
industrial compliance shall notify owners of petroleum underground 28456
storage tanks of the linked deposit program and its eligibility 28457
requirements. Annually, on or before the first day of February, 28458
the board shall report on the petroleum underground storage tank 28459
linked deposit program for the preceding calendar year to the 28460
governor, speaker of the house of representatives, and president 28461
of the senate. The speaker of the house of representatives and 28462
president of the senate shall transmit copies of the report to the 28463
~~chairmen~~ chairpersons of their respective standing committees that 28464
customarily consider legislation regarding underground storage 28465
tanks and the environment. The report shall set forth the 28466
petroleum underground storage tank linked deposits made by the 28467
board during the preceding year and shall include information 28468
regarding the nature, terms, and amounts of loans upon which the 28469
linked deposits were made and the eligible owners to which the 28470
loans were made. 28471

Sec. 3741.14. (A) Each filling station offering self-service 28472
shall be operated in accordance with national fire protection 28473
association standard number 30A-1990, and the provisions of the 28474
"Occupational Safety and Health Act of 1970," 84 Stat. 1590, 5 28475
U.S.C.A. 5108, and any amendments thereto and standards adopted 28476
thereunder. 28477

(B) The ~~fire marshal~~ superintendent of the division of 28478
industrial compliance shall adopt, as part of the state fire code, 28479
rules governing the equipment, operation, and maintenance of 28480
filling stations. The rules shall be such as are necessary for the 28481
protection of the persons and property of the public, but shall 28482

require as a minimum that: 28483

(1) Gasoline and other flammable or combustible liquids be 28484
dispensed only by a person who is not smoking; 28485

(2) A sign, in block letters at least four inches in height, 28486
be conspicuously displayed on each gasoline pump island where 28487
self-service is offered stating that it is a self-service island; 28488

(3) Signs giving instructions for the operation of gasoline 28489
dispensing equipment, in block letters, be conspicuously posted at 28490
each filling station offering self-service; 28491

(4) A sign bearing the following words in block letters be 28492
conspicuously posted on each gasoline pump island where 28493
self-service is offered: 28494

(a) "STOP ENGINE"; 28495

(b) "NO SMOKING"; 28496

(c) "WARNING--IT IS UNLAWFUL AND DANGEROUS TO DISPENSE 28497
GASOLINE INTO UNAPPROVED CONTAINERS"; 28498

(d) "PERSONS USING DISPENSERS WITH HOLD-OPEN LATCHES MUST 28499
REMAIN AT THE REFUELING POINT DURING REFUELING". 28500

(5) All signs required by this section be constructed of 28501
rigid, weather-resistant material; 28502

(6) Gasoline dispensing nozzles used by any person other than 28503
a supervisor, employee, or attendant be of an approved automatic 28504
closing type. Any person other than a supervisor, employee, or 28505
attendant using a dispenser with a hold-open latch shall remain at 28506
the refueling point during refueling. 28507

(C) The ~~fire marshal~~ superintendent shall not prohibit the 28508
operation of a filling station offering self-service solely 28509
because it is an unattended filling station that utilizes key- or 28510
card-operated self-service flammable or combustible liquid 28511
dispensing equipment. 28512

(D) Nothing in this section shall be interpreted to prohibit 28513
the ~~fire marshal~~ superintendent from adopting reasonable rules 28514
governing the safety of self-service flammable or combustible 28515
liquid dispensing equipment. 28516

Sec. 3741.15. The superintendent of the division of 28517
industrial compliance shall have exclusive responsibility for 28518
permitting, and the inspection of, above-ground storage tanks 28519
containing petroleum or petroleum products at bulk plants and 28520
terminals in this state. The superintendent, in consultation with 28521
the board of building standards, shall adopt those rules necessary 28522
to carry out this section. 28523

Sec. 3743.57. (A) All fees collected by the fire marshal for 28524
licenses or permits issued pursuant to this chapter shall be 28525
deposited into the state fire marshal's fund, and interest earned 28526
on the amounts in the fund shall be credited by the treasurer of 28527
state to the fund. 28528

(B) There is hereby established in the state treasury the 28529
fire marshal's fireworks training and education fund. The fire 28530
marshal shall deposit all assessments paid under this division 28531
into the state treasury to the credit of the fund. Each fireworks 28532
manufacturer and fireworks wholesaler licensed under this chapter 28533
shall pay assessments to the fire marshal for deposit into the 28534
fund as required by this division. 28535

The fire marshal shall impose an initial assessment upon each 28536
licensed fireworks manufacturer and wholesaler in order to 28537
establish a fund balance of fifteen thousand dollars. The fund 28538
balance shall at no time exceed fifteen thousand dollars, and the 28539
fire marshal shall impose no further assessments unless the fund 28540
balance is reduced to five thousand dollars or less. If the fund 28541
balance is reduced to five thousand dollars or less, the fire 28542

marshal shall impose an additional assessment upon each licensed 28543
fireworks manufacturer and wholesaler in order to increase the 28544
fund balance to fifteen thousand dollars. The fire marshal shall 28545
determine the amount of the initial assessment on each 28546
manufacturer or wholesaler and each additional assessment by 28547
dividing the total amount needed to be paid into the fund by the 28548
total number of fireworks manufacturers and wholesalers licensed 28549
under this chapter. If a licensed fireworks manufacturer or 28550
wholesaler fails to pay an assessment required by this division 28551
within thirty days after receiving notice of the assessment, the 28552
fire marshal, in accordance with Chapter 119. of the Revised Code, 28553
may refuse to issue, or may revoke, the appropriate license. 28554

The fire marshal shall in the fire marshal's discretion use 28555
amounts in the fund for fireworks training and education purposes, 28556
including, but not limited to, the creation of educational and 28557
training programs, attendance by the fire marshal and the fire 28558
marshal's employees at conferences and seminars, the payment of 28559
travel and meal expenses associated with such attendance, 28560
participation by the fire marshal and the fire marshal's employees 28561
in committee meetings and other meetings related to pyrotechnic 28562
codes, and the payment of travel and meal expenses associated with 28563
such participation. The use of the fund shall comply with rules of 28564
the department of ~~commerce~~ public safety, policies and procedures 28565
established by the director of budget and management, and all 28566
other applicable laws. 28567

Sec. 3743.75. (A) During the period beginning on ~~the~~ 28568
~~effective date of this section~~ June 29, 2001, and ending on 28569
December 15, 2005, the state fire marshal shall not do any of the 28570
following: 28571

(1) Issue a license as a manufacturer of fireworks under 28572
sections 3743.02 and 3743.03 of the Revised Code to a person for a 28573

particular fireworks plant unless that person possessed such a 28574
license for that fireworks plant immediately prior to ~~the~~ 28575
~~effective date of this section~~ June 29, 2001; 28576

(2) Issue a license as a wholesaler of fireworks under 28577
sections 3743.15 and 3743.16 of the Revised Code to a person for a 28578
particular location unless that person possessed such a license 28579
for that location immediately prior to ~~the effective date of this~~ 28580
~~section~~ June 29, 2001; 28581

(3) Except as provided in division (B) of this section, 28582
approve the transfer of a license as a manufacturer or wholesaler 28583
of fireworks issued under this chapter to any location other than 28584
a location for which a license was issued under this chapter 28585
immediately prior to ~~the effective date of this section~~ June 29, 28586
2001. 28587

(B) Division (A)(3) of this section does not apply to a 28588
transfer that the state fire marshal approves under division 28589
(D)(2) of section 3743.17 of the Revised Code. Section 3743.59 of 28590
the Revised Code does not apply to this section. 28591

(C) The department of ~~commerce~~ public safety and the division 28592
of state fire marshal shall devise, by December 15, 2005, a 28593
proposal to provide for the issuance of manufacturer and 28594
wholesaler of fireworks licenses that is based upon demographics 28595
and designed to ensure the safety of the public and send a copy of 28596
the proposal to the president of the senate and speaker of the 28597
house of representatives. 28598

Sec. 3745.04. As used in this section, "any person" means any 28599
individual, any partnership, corporation, association, or other 28600
legal entity, or any political subdivision, instrumentality, or 28601
agency of a state, whether or not the individual or legal entity 28602
is an applicant for or holder of a license, permit, or variance 28603
from the environmental protection agency, and includes any 28604

department, agency, or instrumentality of the federal government 28605
that is an applicant for or holder of a license, permit, or 28606
variance from the environmental protection agency. 28607

As used in this section, "action" or "act" includes the 28608
adoption, modification, or repeal of a rule or standard, the 28609
issuance, modification, or revocation of any lawful order other 28610
than an emergency order, and the issuance, denial, modification, 28611
or revocation of a license, permit, lease, variance, or 28612
certificate, or the approval or disapproval of plans and 28613
specifications pursuant to law or rules adopted thereunder. 28614

Any person who was a party to a proceeding before the 28615
director of environmental protection may participate in an appeal 28616
to the environmental review appeals commission for an order 28617
vacating or modifying the action of the director or a local board 28618
of health, or ordering the director or board of health to perform 28619
an act. The environmental review appeals commission has exclusive 28620
original jurisdiction over any matter that may, under this 28621
section, be brought before it. 28622

The person so appealing to the commission shall be known as 28623
appellant, and the director and any party to a proceeding 28624
substantially supporting the finding from which the appeal is 28625
taken shall be known as appellee, except that when an appeal 28626
involves a license to operate a disposal site or facility, the 28627
local board of health or the director of environmental protection, 28628
and any party to a proceeding substantially supporting the finding 28629
from which the appeal is taken, shall, as appropriate, be known as 28630
the appellee. Appellant and appellee shall be deemed to be parties 28631
to the appeal. 28632

The appeal shall be in writing and shall set forth the action 28633
complained of and the grounds upon which the appeal is based. 28634

The appeal shall be filed with the commission within thirty 28635

days after notice of the action. Notice of the filing of the 28636
appeal shall be filed with the appellee within three days after 28637
the appeal is filed with the commission. 28638

The appeal shall be accompanied by a filing fee of ~~sixty~~ 28639
seventy dollars, which the commission, in its discretion, may 28640
~~waive in cases of~~ reduce if by affidavit the appellant 28641
demonstrates that payment of the full amount of the fee would 28642
cause extreme hardship. 28643

Within seven days after receipt of the notice of appeal, the 28644
director or local board of health shall prepare and certify to the 28645
commission a record of the proceedings out of which the appeal 28646
arises, including all documents and correspondence, and a 28647
transcript of all testimony. 28648

Upon the filing of the appeal, the commission shall fix the 28649
time and place at which the hearing on the appeal will be held. 28650
The commission shall give the appellant and the appellee at least 28651
ten days' written notice thereof by certified mail. The commission 28652
shall hold the hearing within thirty days after the notice of 28653
appeal is filed. The commission may postpone or continue any 28654
hearing upon its own motion or upon application of the appellant 28655
or of the appellee. 28656

The filing of an appeal does not automatically suspend or 28657
stay execution of the action appealed from. Upon application by 28658
the appellant, the commission may suspend or stay the execution 28659
pending immediate determination of the appeal without interruption 28660
by continuances, other than for unavoidable circumstances. 28661

As used in this section and sections 3745.05 and 3745.06 of 28662
the Revised Code, "director of environmental protection" and 28663
"director" are deemed to include the director of agriculture and 28664
"environmental protection agency" is deemed to include the 28665
department of agriculture with respect to actions that are 28666

appealable to the commission under Chapter 903. of the Revised Code. 28667
28668

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director. 28669
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(B) ~~Prior to January 1, 1994, each~~ Each person who is issued a ~~permit to operate, variance, or permit to install~~ prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following ~~schedule~~ schedules: 28677
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28679
28680
28681

(1) Fuel-Burning Equipment (boilers) 28682

Input capacity <u>(maximum)</u> (million British thermal units per hour)	Permit to operate	Variance	Permit to install	
<u>Greater than 0 or more, but less than 10</u>	\$ 75	\$225	\$ 100 <u>200</u>	28683 28684 28685 28686 28687
10 or more, but less than 100	210	450	390 <u>400</u>	28688
100 or more, but less than 300	270	675	585 <u>800</u>	28689
300 or more, but less than 500	330	900	780 <u>1500</u>	28690
500 or more, <u>but less than 1000</u>	500	975	1000 <u>2500</u>	28691
<u>1000 or more, but less than 5000</u>			<u>4000</u>	28692
<u>5000 or more</u>			<u>6000</u>	28693

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable 28694
28695

amount established in division (F)(1) of this section. 28696

~~Any fuel burning equipment using only natural gas, propane, 28697
liquefied petroleum gas, or number two or lighter fuel oil shall 28698
be assessed a fee one half of that shown.~~ 28699

(2) Incinerators 28700

	Permit		Permit	
	to		to	28701
Input capacity	to		to	28702
(pounds per hour)	operate	Variance	install	28703
0 to 50 <u>100</u>	\$ 50	\$225	\$ 65 <u>100</u>	28704
51 <u>101</u> to 500	210	450	390 <u>400</u>	28705
501 to 2000	270	675	585 <u>750</u>	28706
2001 to 30,000 <u>20,000</u>	330	900	780	28707
			<u>1000</u>	
more than 30,000 <u>20,000</u>	500	975	1000	28708
			<u>2500</u>	

~~(3)(a)~~ Process 28709

	Permit		Permit	
	to		to	28710
Process weight rate	to		to	28711
(pounds per hour)	operate	Variance	install	28712
0 to 1000	\$100	\$225	\$ 200	28713
1001 to 5000	210	450	390 <u>400</u>	28714
5001 to 10,000	270	675	585 <u>600</u>	28715
10,001 to 50,000	330	900	780 <u>800</u>	28716
more than 50,000	500	975	1000	28717

In any process where process weight rate cannot be 28718
ascertained, the minimum fee shall be assessed. 28719

(b) Notwithstanding division (B)(3)(a) of this section, any 28720
person issued a permit to install pursuant to rules adopted under 28721
division (F) of section 3704.03 of the Revised Code shall pay the 28722
fees established in division (B)(3)(c) of this section for a 28723
process used in any of the following industries, as identified by 28724

<u>the applicable four-digit standard industrial classification code</u>		28725		
<u>according to the Standard Industrial Classification Manual</u>		28726		
<u>published by the United States office of management and budget in</u>		28727		
<u>the executive office of the president, 1972, as revised:</u>		28728		
<u>1211 Bituminous coal and lignite mining;</u>		28729		
<u>1213 Bituminous coal and lignite mining services;</u>		28730		
<u>1411 Dimension stone;</u>		28731		
<u>1422 Crushed and broken limestone;</u>		28732		
<u>1427 Crushed and broken stone, not elsewhere classified;</u>		28733		
<u>1442 Construction sand and gravel;</u>		28734		
<u>1446 Industrial sand;</u>		28735		
<u>3281 Cut stone and stone products;</u>		28736		
<u>3295 Minerals and earth, ground or otherwise treated.</u>		28737		
<u>(c) The fees established in the following schedule apply to</u>		28738		
<u>the issuance of a permit to install pursuant to rules adopted</u>		28739		
<u>under division (F) of section 3704.03 of the Revised Code for a</u>		28740		
<u>process listed in division (B)(3)(b) of this section:</u>		28741		
<u>Process weight rate</u>	<u>Permit to</u>	28742		
<u>(pounds per hour)</u>	<u>install</u>	28743		
<u>0 to 1000</u>	<u>\$ 200</u>	28744		
<u>10,001 to 50,000</u>	<u>300</u>	28745		
<u>50,001 to 100,000</u>	<u>400</u>	28746		
<u>100,001 to 200,000</u>	<u>500</u>	28747		
<u>200,001 to 400,000</u>	<u>600</u>	28748		
<u>400,001 or more</u>	<u>700</u>	28749		
(4) Storage tanks		28750		
Gallons (<u>maximum useful</u> capacity)	<u>Permit</u>	<u>Permit</u>	28751	
	<u>to</u>	<u>to</u>	28752	
	<u>operate</u>	<u>Variance</u>	<u>install</u>	28753
			28754	

Less than 40,000 <u>0 to 20,000</u>	\$150	\$225	\$ 195 <u>100</u>	28755
20,001 to 40,000 or more, but less				28756
than 100,000	210	450	390 <u>150</u>	28757
100,000 or more, but less				28758
than 400,000	270	675	585	28759
400,000 or more, but less				28760
than <u>40,001 to 100,000</u>			<u>200</u>	28761
<u>100,001 to 250,000</u>			<u>250</u>	28762
<u>250,001 to 500,000</u>			<u>350</u>	28763
<u>500,001 to 1,000,000</u>	330	900	780 <u>500</u>	28764
1,000,000 <u>1,000,001 or more greater</u>	500	975	1000 <u>750</u>	28765
(5) Gasoline				28766
Gasoline/fuel dispensing	Permit		Permit	28767
facilities	to		to	28768
	operate	Variance	install	28769
For each gasoline/fuel				28770
dispensing facility	\$20	\$100	\$ 50 <u>100</u>	28771
(6) Dry cleaning				28772
Dry cleaning	Permit		Permit	28773
facilities	to		to	28774
	operate	Variance	install	28775
For each dry cleaning				28776
facility <u>(includes all units</u>	\$50	\$200	\$100	28777
<u>at the facility)</u>				28778
(7) Coal mining operations regulated under Chapter 1513. of				28779
the Revised Code shall be assessed a fee of two hundred fifty				28780
dollars per mine or location. <u>Registration status</u>				28781
			<u>Permit</u>	28782
			<u>to</u>	28783
			<u>install</u>	28784
<u>For each source covered by registration status</u>			<u>\$75</u>	28785
(C)(1) Except as otherwise provided in division (C)(2) of				28786

this section, beginning July 1, 1994, each person who owns or 28787
operates an air contaminant source and who is required to apply 28788
for and obtain a Title V permit under section 3704.036 of the 28789
Revised Code shall pay the fees set forth in division (C)(1) of 28790
this section. For the purposes of that division, total emissions 28791
of air contaminants may be calculated using engineering 28792
calculations, emissions factors, material balance calculations, or 28793
performance testing procedures, as authorized by the director. 28794

The following fees shall be assessed on the total actual 28795
emissions from a source in tons per year of the regulated 28796
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 28797
organic compounds, and lead: 28798

(a) Fifteen dollars per ton on the total actual emissions of 28799
each such regulated pollutant during the period July through 28800
December 1993, to be collected no sooner than July 1, 1994; 28801

(b) Twenty dollars per ton on the total actual emissions of 28802
each such regulated pollutant during calendar year 1994, to be 28803
collected no sooner than April 15, 1995; 28804

(c) Twenty-five dollars per ton on the total actual emissions 28805
of each such regulated pollutant in calendar year 1995, and each 28806
subsequent calendar year, to be collected no sooner than the 28807
fifteenth day of April of the year next succeeding the calendar 28808
year in which the emissions occurred. 28809

The fees levied under division (C)(1) of this section do not 28810
apply to that portion of the emissions of a regulated pollutant at 28811
a facility that exceed four thousand tons during a calendar year. 28812

(2) The fees assessed under division (C)(1) of this section 28813
are for the purpose of providing funding for the Title V permit 28814
program. 28815

(3) The fees assessed under division (C)(1) of this section 28816
do not apply to emissions from any electric generating unit 28817

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.

(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.

(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 (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		28846
of regulated pollutants	Annual fee	28847
emitted	per facility	28848
More than 0, but less than 50	\$ 75	28849

50 or more, but less than 100	300	28850
100 or more	700	28851

(2) Except as provided in division (D)(3) of this section, 28852
beginning January 1, 2004, each person who owns or operates an air 28853
contaminant source; who is required to apply for a permit to 28854
operate pursuant to rules adopted under division (G), or a 28855
variance pursuant to division (H), of section 3704.03 of the 28856
Revised Code; and who is not required to apply for and obtain a 28857
Title V permit under section 3704.03 of the Revised Code shall pay 28858
a single fee based upon the sum of the actual annual emissions 28859
from the facility of the regulated pollutants particulate matter, 28860
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 28861
accordance with the following schedule: 28862

<u>Total tons per year</u>		28863
<u>of regulated pollutants</u>	<u>Annual fee</u>	28864
<u>emitted</u>	<u>per facility</u>	28865
<u>More than 0, but less than 10</u>	<u>\$ 100</u>	28866
<u>10 or more, but less than 50</u>	<u>200</u>	28867
<u>50 or more, but less than 100</u>	<u>300</u>	28868
<u>100 or more</u>	<u>700</u>	28869

(3)(a) As used in division (D) of this section, "synthetic 28870
minor facility" means a facility for which one or more permits to 28871
install or permits to operate have been issued for the air 28872
contaminant sources at the facility that include terms and 28873
conditions that lower the facility's potential to emit air 28874
contaminants below the major source thresholds established in 28875
rules adopted under section 3704.036 of the Revised Code. 28876

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 28877
each person who owns or operates a synthetic minor facility shall 28878
pay an annual fee based on the sum of the actual annual emissions 28879
from the facility of particulate matter, sulfur dioxide, nitrogen 28880
dioxide, organic compounds, and lead in accordance with the 28881

following schedule:		28882
Combined total tons		28883
per year of all regulated	Annual fee	28884
pollutants emitted	per facility	28885
Less than 10	\$ 170	28886
10 or more, but less than 20	340	28887
20 or more, but less than 30	670	28888
30 or more, but less than 40	1,010	28889
40 or more, but less than 50	1,340	28890
50 or more, but less than 60	1,680	28891
60 or more, but less than 70	2,010	28892
70 or more, but less than 80	2,350	28893
80 or more, but less than 90	2,680	28894
90 or more, but less than 100	3,020	28895
100 or more	3,350	28896
(3) (4) The fees assessed under division (D)(1) of this		28897
section shall be collected annually no sooner than the fifteenth		28898
day of April, commencing in 1995. <u>The fees assessed under division</u>		28899
<u>(D)(2) of this section shall be collected annually no sooner than</u>		28900
<u>the fifteenth day of April, commencing in 2005.</u> The fees assessed		28901
under division (D) (2) (3) of this section shall be collected no		28902
sooner than the fifteenth day of April, commencing in 2000. The		28903
fees assessed under division (D) of this section in a calendar		28904
year shall be based upon the sum of the actual emissions of those		28905
regulated pollutants during the preceding calendar year. For the		28906
purpose of division (D) of this section, emissions of air		28907
contaminants may be calculated using engineering calculations,		28908
emission factors, material balance calculations, or performance		28909
testing procedures, as authorized by the director. The director,		28910
by rule, may require persons who are required to pay the fees		28911
assessed under division (D) of this section to pay those fees		28912
biennially rather than annually.		28913

(E)(1) Consistent with the need to cover the reasonable costs 28914
of the Title V permit program, the director annually shall 28915
increase the fees prescribed in division (C)(1) of this section by 28916
the percentage, if any, by which the consumer price index for the 28917
most recent calendar year ending before the beginning of a year 28918
exceeds the consumer price index for calendar year 1989. Upon 28919
calculating an increase in fees authorized by division (E)(1) of 28920
this section, the director shall compile revised fee schedules for 28921
the purposes of division (C)(1) of this section and shall make the 28922
revised schedules available to persons required to pay the fees 28923
assessed under that division and to the public. 28924

(2) For the purposes of division (E)(1) of this section: 28925

(a) The consumer price index for any year is the average of 28926
the consumer price index for all urban consumers published by the 28927
United States department of labor as of the close of the 28928
twelve-month period ending on the thirty-first day of August of 28929
that year. 28930

(b) If the 1989 consumer price index is revised, the director 28931
shall use the revision of the consumer price index that is most 28932
consistent with that for calendar year 1989. 28933

(F) Each person who is issued a permit to install pursuant to 28934
rules adopted under division (F) of section 3704.03 of the Revised 28935
Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees 28936
specified in the following schedules: 28937

(1) Fuel-burning equipment (boilers, furnaces, or process 28938
heaters used in the process of burning fuel for the primary 28939
purpose of producing heat or power by indirect heat transfer) 28940
Input capacity (maximum) 28941
(million British thermal units per hour) Permit to install 28942
Greater than 0, but less than 10 \$ 200 28943
10 or more, but less than 100 400 28944

100 or more, but less than 300	800 <u>1000</u>	28945
300 or more, but less than 500	1500 <u>2250</u>	28946
500 or more, but less than 1000	2500 <u>3750</u>	28947
1000 or more, but less than 5000	4000 <u>6000</u>	28948
5000 or more	6000 <u>9000</u>	28949

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) Combustion turbines and stationary internal combustion
engines designed to generate electricity

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	28955
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	28956
<u>10 or more, but less than 25</u>	<u>150</u>	28957
<u>25 or more, but less than 50</u>	<u>300</u>	28958
<u>50 or more, but less than 100</u>	<u>500</u>	28959
<u>100 or more, but less than 250</u>	<u>1000</u>	28960
<u>250 or more</u>	<u>2000</u>	28961

(3) Incinerators 28962

Input capacity (pounds per hour)	Permit to install	28963
0 to 100	\$ 100	28964
101 to 500	400 <u>500</u>	28965
501 to 2000	750 <u>1000</u>	28966
2001 to 20,000	1000 <u>1500</u>	28967
more than 20,000	2500 <u>3750</u>	28968

~~(3)~~(4)(a) Process 28969

Process weight rate (pounds per hour)	Permit to install	28970
0 to 1000	\$ 200	28971
1001 to 5000	400 <u>500</u>	28972
5001 to 10,000	600 <u>750</u>	28973
10,001 to 50,000	800 <u>1000</u>	28974
more than 50,000	1000 <u>1250</u>	28975

In any process where process weight rate cannot be 28976
ascertained, the minimum fee shall be assessed. A boiler, furnace, 28977
combustion turbine, stationary internal combustion engine, or 28978
process heater designed to provide direct heat or power to a 28979
process not designed to generate electricity shall be assessed a 28980
fee established in division (F)(4)(a) of this section. A 28981
combustion turbine or stationary internal combustion engine 28982
designed to generate electricity shall be assessed a fee 28983
established in division (F)(2) of this section. 28984

(b) Notwithstanding division (F)(3)(a) of this section, any 28985
person issued a permit to install pursuant to rules adopted under 28986
division (F) of section 3704.03 of the Revised Code shall pay the 28987
fees set forth in division (F)(3)(c) of this section for a process 28988
used in any of the following industries, as identified by the 28989
applicable four-digit standard industrial classification code 28990
according to the Standard Industrial Classification Manual 28991
published by the United States office of management and budget in 28992
the executive office of the president, 1972, as revised: 28993

1211 Bituminous coal and lignite mining; 28994

1213 Bituminous coal and lignite mining services; 28995

1411 Dimension stone; 28996

1422 Crushed and broken limestone; 28997

1427 Crushed and broken stone, not elsewhere classified; 28998

1442 Construction sand and gravel; 28999

1446 Industrial sand; 29000

3281 Cut stone and stone products; 29001

3295 Minerals and earth, ground or otherwise treated. 29002

(c) The fees set forth in the following schedule apply to the 29003
issuance of a permit to install pursuant to rules adopted under 29004

division (F) of section 3704.03 of the Revised Code for a process		29005
identified in division (F)(3)(b) of this section:		29006
Gallons (maximum		29007
useful capacity <u>Process weight rate</u>	Permit to install	29008
<u>(pounds per hour)</u>		
0 to 20,000 <u>10,000</u>	\$ 100 <u>200</u>	29009
20,001 <u>10,001</u> to 40,000 <u>50,000</u>	150 <u>400</u>	29010
40,001 <u>50,001</u> to 100,000	200 <u>500</u>	29011
100,001 to 250,000 <u>200,000</u>	250 <u>600</u>	29012
250,001 <u>200,001</u> to 500,000 <u>400,000</u>	350 <u>750</u>	29013
500,001 to 1,000,000	500	29014
1,000,001 <u>400,001</u> or greater <u>more</u>	750 <u>900</u>	29015
(4) <u>(5)</u> Storage tanks		29016
Gallons (maximum useful capacity)	Permit to install	29017
0 to 20,000	\$ 100	29018
20,001 to 40,000	150	29019
40,001 to 100,000	200 <u>250</u>	29020
100,001 to 250,000	250	29021
250,001 to 500,000	350 <u>400</u>	29022
500,001 to 1,000,000	500	29023
1,000,001 or greater	750	29024
(5) <u>(6)</u> Gasoline/fuel dispensing facilities		29025
For each gasoline/fuel	Permit to install	29026
dispensing facility (<u>includes all</u>	\$ 100	29027
<u>units at the facility</u>)		
(6) <u>(7)</u> Dry cleaning facilities		29028
For each dry cleaning		29029
facility (includes all units	Permit to install	29030
at the facility)	\$ 100	29031
(7) <u>(8)</u> Registration status		29032
For each source covered	Permit to install	29033
by registration status	\$ 75	29034

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee	
Each notification	\$75	29039
Asbestos removal	\$3/unit	29040
Asbestos cleanup	\$4/cubic yard	29041

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction

under division (W) of section 3704.03 of the Revised Code. This 29066
division only applies to sources for which actual construction of 29067
the source begins on or after July 1, 1993. The imposition or 29068
payment of the fee established in this division does not preclude 29069
the director from taking any administrative or judicial 29070
enforcement action under this chapter, Chapter 3704., 3714., 29071
3734., or 6111. of the Revised Code, or a rule adopted under any 29072
of them, in connection with a violation of rules adopted under 29073
division (F) of section 3704.03 of the Revised Code. 29074

As used in this division, "actual construction of the source" 29075
means the initiation of physical on-site construction activities 29076
in connection with improvements to the source that are permanent 29077
in nature, including, without limitation, the installation of 29078
building supports and foundations and the laying of underground 29079
pipework. 29080

(K) Fifty cents per ton of each fee assessed under division 29081
(C) of this section on actual emissions from a source and received 29082
by the environmental protection agency pursuant to that division 29083
shall be deposited into the state treasury to the credit of the 29084
small business assistance fund created in section 3706.19 of the 29085
Revised Code. The remainder of the moneys received by the division 29086
pursuant to that division and moneys received by the agency 29087
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 29088
section shall be deposited in the state treasury to the credit of 29089
the clean air fund created in section 3704.035 of the Revised 29090
Code. 29091

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 29092
or (c) of this section, a person issued a water discharge permit 29093
or renewal of a water discharge permit pursuant to Chapter 6111. 29094
of the Revised Code shall pay a fee based on each point source to 29095
which the issuance is applicable in accordance with the following 29096
schedule: 29097

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	29099
1,001 to 5000	100	29100
5,001 to 50,000	200	29101
50,001 to 100,000	300	29102
100,001 to 300,000	525	29103
over 300,000	750	29104

(b) Notwithstanding the fee schedule specified in division 29105
(L)(1)(a) of this section, the fee for a water discharge permit 29106
that is applicable to coal mining operations regulated under 29107
Chapter 1513. of the Revised Code shall be two hundred fifty 29108
dollars per mine. 29109

(c) Notwithstanding the fee schedule specified in division 29110
(L)(1)(a) of this section, the fee for a water discharge permit 29111
for a public discharger identified by I in the third character of 29112
the permittee's NPDES permit number shall not exceed seven hundred 29113
fifty dollars. 29114

(2) A person applying for a plan approval for a wastewater 29115
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 29116
of the Revised Code shall pay a fee of one hundred dollars plus 29117
sixty-five one-hundredths of one per cent of the estimated project 29118
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 29119
two-tenths of one per cent of the estimated project cost on and 29120
after July 1, ~~2004~~ 2006, except that the total fee shall not 29121
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 29122
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 29123
shall be paid at the time the application is submitted. 29124

(3) A person issued a modification of a water discharge 29125
permit shall pay a fee equal to one-half the fee that otherwise 29126
would be charged for a water discharge permit, except that the fee 29127
for the modification shall not exceed four hundred dollars. 29128

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable

to certain industrial facilities pursuant to division (L)(5)(c) of 29161
 this section, shall be based upon the average daily discharge flow 29162
 in gallons per day calculated using first day of May through 29163
 thirty-first day of October flow data for the period two years 29164
 prior to the date on which the fee is due. In the case of NPDES 29165
 discharge permits for new sources, the fee shall be calculated 29166
 using the average daily design flow of the facility until actual 29167
 average daily discharge flow values are available for the time 29168
 period specified in division (L)(5)(a)(iii) of this section. The 29169
 annual discharge fee may be prorated for a new source as described 29170
 in division (L)(5)(a)(ii) of this section. 29171

(b) An NPDES permit holder that is a public discharger shall 29172
 pay the fee specified in the following schedule: 29173

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	
	January 30, 2003	
	<u>2005</u>	
5,000 to 49,999	\$ 200	29178
50,000 to 100,000	500	29179
100,001 to 250,000	1,050	29180
250,001 to 1,000,000	2,600	29181
1,000,001 to 5,000,000	5,200	29182
5,000,001 to 10,000,000	10,350	29183
10,000,001 to 20,000,000	15,550	29184
20,000,001 to 50,000,000	25,900	29185
50,000,001 to 100,000,000	41,400	29186
100,000,001 or more	62,100	29187

Public dischargers owning or operating two or more publicly 29188
 owned treatment works serving the same political subdivision, as 29189
 "treatment works" is defined in section 6111.01 of the Revised 29190
 Code, and that serve exclusively political subdivisions having a 29191

population of fewer than one hundred thousand shall pay an annual 29192
discharge fee under division (L)(5)(b) of this section that is 29193
based on the combined average daily discharge flow of the 29194
treatment works. 29195

(c) An NPDES permit holder that is an industrial discharger, 29196
other than a coal mining operator identified by P in the third 29197
character of the permittee's NPDES permit number, shall pay the 29198
fee specified in the following schedule: 29199

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	
	January 30, 2003	
	<u>2005</u>	
5,000 to 49,999	\$ 250	29204
50,000 to 250,000	1,200	29205
250,001 to 1,000,000	2,950	29206
1,000,001 to 5,000,000	5,850	29207
5,000,001 to 10,000,000	8,800	29208
10,000,001 to 20,000,000	11,700	29209
20,000,001 to 100,000,000	14,050	29210
100,000,001 to 250,000,000	16,400	29211
250,000,001 or more	18,700	29212

In addition to the fee specified in the above schedule, an 29213
NPDES permit holder that is an industrial discharger classified as 29214
a major discharger during all or part of the annual discharge fee 29215
billing year specified in division (L)(5)(a)(ii) of this section 29216
shall pay a nonrefundable annual surcharge of seven thousand five 29217
hundred dollars not later than January 30, ~~2002~~ 2004, and not 29218
later than January 30, ~~2003~~ 2005. Any person who fails to pay the 29219
surcharge at that time shall pay an additional amount that equals 29220
ten per cent of the amount of the surcharge. 29221

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 29222

section, a public discharger identified by I in the third 29223
character of the permittee's NPDES permit number and an industrial 29224
discharger identified by I, J, L, V, W, X, Y, or Z in the third 29225
character of the permittee's NPDES permit number shall pay a 29226
nonrefundable annual discharge fee of one hundred eighty dollars 29227
not later than January 30, ~~2002~~ 2004, and not later than January 29228
30, ~~2003~~ 2005. Any person who fails to pay the fee at that time 29229
shall pay an additional amount that equals ten per cent of the 29230
required fee. 29231

(6) Each person obtaining a national pollutant discharge 29232
elimination system general or individual permit for municipal 29233
storm water discharge shall pay a nonrefundable storm water 29234
discharge fee of one hundred dollars per square mile of area 29235
permitted. The fee shall not exceed ten thousand dollars and shall 29236
be payable on or before January 30, 2004, and the thirtieth day of 29237
January of each year thereafter. Any person who fails to pay the 29238
fee on the date specified in division (L)(6) of this section shall 29239
pay an additional amount per year equal to ten per cent of the 29240
annual fee that is unpaid. 29241

(7) The director shall transmit all moneys collected under 29242
division (L) of this section to the treasurer of state for deposit 29243
into the state treasury to the credit of the surface water 29244
protection fund created in section 6111.038 of the Revised Code. 29245

(8) As used in division (L) of this section: 29246

(a) "NPDES" means the federally approved national pollutant 29247
discharge elimination system program for issuing, modifying, 29248
revoking, reissuing, terminating, monitoring, and enforcing 29249
permits and imposing and enforcing pretreatment requirements under 29250
Chapter 6111. of the Revised Code and rules adopted under it. 29251

(b) "Public discharger" means any holder of an NPDES permit 29252
identified by P in the second character of the NPDES permit number 29253

assigned by the director. 29254

(c) "Industrial discharger" means any holder of an NPDES 29255
permit identified by I in the second character of the NPDES permit 29256
number assigned by the director. 29257

(d) "Major discharger" means any holder of an NPDES permit 29258
classified as major by the regional administrator of the United 29259
States environmental protection agency in conjunction with the 29260
director. 29261

(M) Through June 30, ~~2004~~ 2006, a person applying for a 29262
license or license renewal to operate a public water system under 29263
section 6109.21 of the Revised Code shall pay the appropriate fee 29264
established under this division at the time of application to the 29265
director. Any person who fails to pay the fee at that time shall 29266
pay an additional amount that equals ten per cent of the required 29267
fee. The director shall transmit all moneys collected under this 29268
division to the treasurer of state for deposit into the drinking 29269
water protection fund created in section 6109.30 of the Revised 29270
Code. 29271

Fees required under this division shall be calculated and 29272
paid in accordance with the following schedule: 29273

(1) For the initial license required under division (A)(1) of 29274
section 6109.21 of the Revised Code for any public water system 29275
that is a community water system as defined in section 6109.01 of 29276
the Revised Code, and for each license renewal required for such a 29277
system prior to January 31, ~~2004~~ 2006, the fee is: 29278

Number of service connections	Fee amount	
Not more than 49	\$56 <u>112</u>	29280
50 to 99	88 <u>176</u>	29281
Number of service connections	Average cost per connection	
100 to 2,499	\$.96 <u>1.92</u>	29283
2,500 to 4,999	.92 <u>1.60</u>	29284

5,000 to 7,499	-.88 <u>1.54</u>	29285
7,500 to 9,999	-.84 <u>1.48</u>	29286
10,000 to 14,999	-.80 <u>1.28</u>	29287
15,000 to 24,999	-.76 <u>1.22</u>	29288
25,000 to 49,999	-.72 <u>1.16</u>	29289
50,000 to 99,999	-.68 <u>.92</u>	29290
100,000 to 149,999	-.64 <u>.86</u>	29291
150,000 to 199,999	-.60 <u>.80</u>	29292
200,000 or more	-.56 <u>.76</u>	29293

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 56 <u>112</u>	29307
150 to 299	88 <u>176</u>	29308
300 to 749	192 <u>384</u>	29309
750 to 1,499	392 <u>686</u>	29310
1,500 to 2,999	792 <u>1,386</u>	29311
3,000 to 7,499	1,760 <u>3,080</u>	29312
7,500 to 14,999	3,800 <u>6,270</u>	29313
15,000 to 22,499	6,240 <u>10,296</u>	29314
22,500 to 29,999	8,576 <u>14,150</u>	29315

30,000 or more ~~11,600~~ 19,140 29317

As used in division (M)(2) of this section, "population 29318
served" means the total number of individuals receiving water from 29319
the water supply during a twenty-four-hour period for at least 29320
sixty days during any calendar year. In the absence of a specific 29321
population count, that number shall be calculated at the rate of 29322
three individuals per service connection. 29323

(3) For the initial license required under division (A)(3) of 29324
section 6109.21 of the Revised Code for any public water system 29325
that is not a community water system and serves a transient 29326
population, and for each license renewal required for such a 29327
system prior to January 31, ~~2004~~ 2006, the fee is: 29328

Number of wells supplying system	Fee amount	
1	\$ 56 <u>112</u>	29329 29330
2	56 <u>112</u>	29331
3	88 <u>176</u>	29332
4	192 <u>316</u>	29333
5	392 <u>646</u>	29334
System supplied by surface 29335 water, springs, or dug wells	792 <u>1,300</u> 29336	

As used in division (M)(3) of this section, "number of wells 29337
supplying system" means those wells that are physically connected 29338
to the plumbing system serving the public water system. 29339

(N)(1) A person applying for a plan approval for a public 29340
water supply system under section 6109.07 of the Revised Code 29341
shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ 29342
thirty-five hundredths of one per cent of the estimated project 29343
cost, except that the total fee shall not exceed ~~fifteen~~ twenty 29344
thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen 29345
thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be 29346
paid at the time the application is submitted. 29347

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	\$1,650	29363
<u>MMO-MUG</u>	<u>\$2,000</u>	29364
<u>MF</u>	<u>2,100</u>	29365
<u>MMO-MUG and MF</u>	<u>2,550</u>	29366
organic chemical	3,500 <u>5,400</u>	29367
inorganic chemical	3,500 <u>5,400</u>	29368
standard chemistry	1,800 <u>2,800</u>	29369
limited chemistry	1,000 <u>1,550</u>	29370

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>	29373
chemical/radiological	250 <u>3,500</u>	29374
nitrate/turbidity (only)	150 <u>1,000</u>	29375

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 29380
person shall pay eighteen hundred dollars for each additional 29381
survey requested. 29382

As used in division (N)(3) of this section: 29383

(a) "MF" means microfiltration. 29384

(b) "MMO" means minimal medium ONPG. 29385

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 29386

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 29387

The director shall transmit all moneys collected under this 29388
division to the treasurer of state for deposit into the drinking 29389
water protection fund created in section 6109.30 of the Revised 29390
Code. 29391

(O) Any person applying to the director for examination for 29392
certification as an operator of a water supply system or 29393
wastewater system under Chapter 6109. or 6111. of the Revised 29394
Code, at the time the application is submitted, shall pay an 29395
application fee of ~~twenty-five~~ forty-five dollars through June 30, 29396
~~2004~~ 2006, and ~~ten~~ twenty-five dollars on and after July 1, ~~2004~~ 29397
2006. Upon approval from the director that the applicant is 29398
eligible to take the examination therefor, the applicant shall pay 29399
a fee in accordance with the following schedule through June 30, 29400
~~2004~~ 2006: 29401

<u>Class A operator</u>	<u>\$45</u>	29402
Class I operator	\$45 <u>75</u>	29403
Class II operator	55 <u>95</u>	29404
Class III operator	65 <u>110</u>	29405
Class IV operator	75 <u>125</u>	29406

On and after July 1, ~~2004~~ 2006, the applicant shall pay a fee 29407
in accordance with the following schedule: 29408

<u>Class A operator</u>	<u>\$25</u>	29409
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Class I operator	\$25 <u>45</u>	29410
Class II operator	35 <u>55</u>	29411
Class III operator	45 <u>65</u>	29412
Class IV operator	55 <u>75</u>	29413

A person shall pay a biennial certification renewal fee for 29414
each applicable class of certification in accordance with the 29415
following schedule: 29416

<u>Class A operator</u>	<u>\$25</u>	29417
<u>Class I operator</u>	<u>35</u>	29418
<u>Class II operator</u>	<u>45</u>	29419
<u>Class III operator</u>	<u>55</u>	29420
<u>Class IV operator</u>	<u>65</u>	29421

If a certification renewal fee is received by the director 29422
more than thirty days, but not more than one year after the 29423
expiration date of the certification, the person shall pay a 29424
certification renewal fee in accordance with the following 29425
schedule: 29426

<u>Class A operator</u>	<u>\$45</u>	29427
<u>Class I operator</u>	<u>55</u>	29428
<u>Class II operator</u>	<u>65</u>	29429
<u>Class III operator</u>	<u>75</u>	29430
<u>Class IV operator</u>	<u>85</u>	29431

A person who requests a replacement certificate shall pay a 29432
fee of twenty-five dollars at the time the request is made. 29433

The director shall transmit all moneys collected under this 29434
division to the treasurer of state for deposit into the drinking 29435
water protection fund created in section 6109.30 of the Revised 29436
Code. 29437

(P) Through June 30, 2004, any person submitting an 29438
application for an industrial water pollution control certificate 29439
under section 6111.31 of the Revised Code shall pay a 29440

nonrefundable fee of five hundred dollars at the time the 29441
application is submitted. The director shall transmit all moneys 29442
collected under this division to the treasurer of state for 29443
deposit into the surface water protection fund created in section 29444
6111.038 of the Revised Code. A person paying a certificate fee 29445
under this division shall not pay an application fee under 29446
division (S)(1) of this section. 29447

(Q) Except as otherwise provided in division (R) of this 29448
section, a person issued a permit by the director for a new solid 29449
waste disposal facility other than an incineration or composting 29450
facility, a new infectious waste treatment facility other than an 29451
incineration facility, or a modification of such an existing 29452
facility that includes an increase in the total disposal or 29453
treatment capacity of the facility pursuant to Chapter 3734. of 29454
the Revised Code shall pay a fee of ten dollars per thousand cubic 29455
yards of disposal or treatment capacity, or one thousand dollars, 29456
whichever is greater, except that the total fee for any such 29457
permit shall not exceed eighty thousand dollars. A person issued a 29458
modification of a permit for a solid waste disposal facility or an 29459
infectious waste treatment facility that does not involve an 29460
increase in the total disposal or treatment capacity of the 29461
facility shall pay a fee of one thousand dollars. A person issued 29462
a permit to install a new, or modify an existing, solid waste 29463
transfer facility under that chapter shall pay a fee of two 29464
thousand five hundred dollars. A person issued a permit to install 29465
a new or to modify an existing solid waste incineration or 29466
composting facility, or an existing infectious waste treatment 29467
facility using incineration as its principal method of treatment, 29468
under that chapter shall pay a fee of one thousand dollars. The 29469
increases in the permit fees under this division resulting from 29470
the amendments made by Amended Substitute House Bill 592 of the 29471
117th general assembly do not apply to any person who submitted an 29472
application for a permit to install a new, or modify an existing, 29473

solid waste disposal facility under that chapter prior to 29474
September 1, 1987; any such person shall pay the permit fee 29475
established in this division as it existed prior to June 24, 1988. 29476
In addition to the applicable permit fee under this division, a 29477
person issued a permit to install or modify a solid waste facility 29478
or an infectious waste treatment facility under that chapter who 29479
fails to pay the permit fee to the director in compliance with 29480
division (V) of this section shall pay an additional ten per cent 29481
of the amount of the fee for each week that the permit fee is 29482
late. 29483

Permit and late payment fees paid to the director under this 29484
division shall be credited to the general revenue fund. 29485

(R)(1) A person issued a registration certificate for a scrap 29486
tire collection facility under section 3734.75 of the Revised Code 29487
shall pay a fee of two hundred dollars, except that if the 29488
facility is owned or operated by a motor vehicle salvage dealer 29489
licensed under Chapter 4738. of the Revised Code, the person shall 29490
pay a fee of twenty-five dollars. 29491

(2) A person issued a registration certificate for a new 29492
scrap tire storage facility under section 3734.76 of the Revised 29493
Code shall pay a fee of three hundred dollars, except that if the 29494
facility is owned or operated by a motor vehicle salvage dealer 29495
licensed under Chapter 4738. of the Revised Code, the person shall 29496
pay a fee of twenty-five dollars. 29497

(3) A person issued a permit for a scrap tire storage 29498
facility under section 3734.76 of the Revised Code shall pay a fee 29499
of one thousand dollars, except that if the facility is owned or 29500
operated by a motor vehicle salvage dealer licensed under Chapter 29501
4738. of the Revised Code, the person shall pay a fee of fifty 29502
dollars. 29503

(4) A person issued a permit for a scrap tire monocell or 29504

monofill facility under section 3734.77 of the Revised Code shall 29505
pay a fee of ten dollars per thousand cubic yards of disposal 29506
capacity or one thousand dollars, whichever is greater, except 29507
that the total fee for any such permit shall not exceed eighty 29508
thousand dollars. 29509

(5) A person issued a registration certificate for a scrap 29510
tire recovery facility under section 3734.78 of the Revised Code 29511
shall pay a fee of one hundred dollars. 29512

(6) A person issued a permit for a scrap tire recovery 29513
facility under section 3734.78 of the Revised Code shall pay a fee 29514
of one thousand dollars. 29515

(7) In addition to the applicable registration certificate or 29516
permit fee under divisions (R)(1) to (6) of this section, a person 29517
issued a registration certificate or permit for any such scrap 29518
tire facility who fails to pay the registration certificate or 29519
permit fee to the director in compliance with division (V) of this 29520
section shall pay an additional ten per cent of the amount of the 29521
fee for each week that the fee is late. 29522

(8) The registration certificate, permit, and late payment 29523
fees paid to the director under divisions (R)(1) to (7) of this 29524
section shall be credited to the scrap tire management fund 29525
created in section 3734.82 of the Revised Code. 29526

(S)(1) Except as provided by divisions (L), (M), (N), (O), 29527
(P), and (S)(2) of this section, division (A)(2) of section 29528
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 29529
and rules adopted under division (T)(1) of this section, any 29530
person applying for a registration certificate under section 29531
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 29532
variance, or plan approval under Chapter 3734. of the Revised Code 29533
shall pay a nonrefundable fee of fifteen dollars at the time the 29534
application is submitted. 29535

Except as otherwise provided, any person applying for a 29536
permit, variance, or plan approval under Chapter 6109. or 6111. of 29537
the Revised Code shall pay a nonrefundable fee of one hundred 29538
dollars at the time the application is submitted through June 30, 29539
~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time 29540
the application is submitted on and after July 1, ~~2004~~ 2006. 29541
Through June 30, ~~2004~~ 2006, any person applying for a national 29542
pollutant discharge elimination system permit under Chapter 6111. 29543
of the Revised Code shall pay a nonrefundable fee of two hundred 29544
dollars at the time of application for the permit. On and after 29545
July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of 29546
fifteen dollars at the time of application. 29547

In addition to the application fee established under division 29548
(S)(1) of this section, any person applying for a national 29549
pollutant discharge elimination system general storm water 29550
construction permit shall pay a nonrefundable fee of twenty 29551
dollars per acre for each acre that is permitted above five acres 29552
at the time the application is submitted. However, the per acreage 29553
fee shall not exceed three hundred dollars. In addition, any 29554
person applying for a national pollutant discharge elimination 29555
system general storm water industrial permit shall pay a 29556
nonrefundable fee of one hundred fifty dollars at the time the 29557
application is submitted. 29558

The director shall transmit all moneys collected under 29559
division (S)(1) of this section pursuant to Chapter 6109. of the 29560
Revised Code to the treasurer of state for deposit into the 29561
drinking water protection fund created in section 6109.30 of the 29562
Revised Code. 29563

The director shall transmit all moneys collected under 29564
division (S)(1) of this section pursuant to Chapter 6111. of the 29565
Revised Code to the treasurer of state for deposit into the 29566
surface water protection fund created in section 6111.038 of the 29567

Revised Code. 29568

If a registration certificate is issued under section 29569
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 29570
the application fee paid shall be deducted from the amount of the 29571
registration certificate fee due under division (R)(1), (2), or 29572
(5) of this section, as applicable. 29573

If a person submits an electronic application for a 29574
registration certificate, permit, variance, or plan approval for 29575
which an application fee is established under division (S)(1) of 29576
this section, the person shall pay the applicable application fee 29577
as expeditiously as possible after the submission of the 29578
electronic application. An application for a registration 29579
certificate, permit, variance, or plan approval for which an 29580
application fee is established under division (S)(1) of this 29581
section shall not be reviewed or processed until the applicable 29582
application fee, and any other fees established under this 29583
division, are paid. 29584

(2) Division (S)(1) of this section does not apply to an 29585
application for a registration certificate for a scrap tire 29586
collection or storage facility submitted under section 3734.75 or 29587
3734.76 of the Revised Code, as applicable, if the owner or 29588
operator of the facility or proposed facility is a motor vehicle 29589
salvage dealer licensed under Chapter 4738. of the Revised Code. 29590

(T) The director may adopt, amend, and rescind rules in 29591
accordance with Chapter 119. of the Revised Code that do all of 29592
the following: 29593

(1) Prescribe fees to be paid by applicants for and holders 29594
of any license, permit, variance, plan approval, or certification 29595
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 29596
the Revised Code that are not specifically established in this 29597
section. The fees shall be designed to defray the cost of 29598

processing, issuing, revoking, modifying, denying, and enforcing 29599
the licenses, permits, variances, plan approvals, and 29600
certifications. 29601

The director shall transmit all moneys collected under rules 29602
adopted under division (T)(1) of this section pursuant to Chapter 29603
6109. of the Revised Code to the treasurer of state for deposit 29604
into the drinking water protection fund created in section 6109.30 29605
of the Revised Code. 29606

The director shall transmit all moneys collected under rules 29607
adopted under division (T)(1) of this section pursuant to Chapter 29608
6111. of the Revised Code to the treasurer of state for deposit 29609
into the surface water protection fund created in section 6111.038 29610
of the Revised Code. 29611

(2) Exempt the state and political subdivisions thereof, 29612
including education facilities or medical facilities owned by the 29613
state or a political subdivision, or any person exempted from 29614
taxation by section 5709.07 or 5709.12 of the Revised Code, from 29615
any fee required by this section; 29616

(3) Provide for the waiver of any fee, or any part thereof, 29617
otherwise required by this section whenever the director 29618
determines that the imposition of the fee would constitute an 29619
unreasonable cost of doing business for any applicant, class of 29620
applicants, or other person subject to the fee; 29621

(4) Prescribe measures that the director considers necessary 29622
to carry out this section. 29623

(U) When the director reasonably demonstrates that the direct 29624
cost to the state associated with the issuance of a permit to 29625
install, license, variance, plan approval, or certification 29626
exceeds the fee for the issuance or review specified by this 29627
section, the director may condition the issuance or review on the 29628
payment by the person receiving the issuance or review of, in 29629

addition to the fee specified by this section, the amount, or any 29630
portion thereof, in excess of the fee specified under this 29631
section. The director shall not so condition issuances for which 29632
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 29633
section. 29634

(V) Except as provided in divisions (L), (M), and (P) of this 29635
section or unless otherwise prescribed by a rule of the director 29636
adopted pursuant to Chapter 119. of the Revised Code, all fees 29637
required by this section are payable within thirty days after the 29638
issuance of an invoice for the fee by the director or the 29639
effective date of the issuance of the license, permit, variance, 29640
plan approval, or certification. If payment is late, the person 29641
responsible for payment of the fee shall pay an additional ten per 29642
cent of the amount due for each month that it is late. 29643

(W) As used in this section, "fuel-burning equipment," 29644
"fuel-burning equipment input capacity," "incinerator," 29645
"incinerator input capacity," "process," "process weight rate," 29646
"storage tank," "gasoline dispensing facility," "dry cleaning 29647
facility," "design flow discharge," and "new source treatment 29648
works" have the meanings ascribed to those terms by applicable 29649
rules or standards adopted by the director under Chapter 3704. or 29650
6111. of the Revised Code. 29651

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 29652
and (J) of this section, and in any other provision of this 29653
section pertaining to fees paid pursuant to Chapter 3704. of the 29654
Revised Code: 29655

(1) "Facility," "federal Clean Air Act," "person," and "Title 29656
V permit" have the same meanings as in section 3704.01 of the 29657
Revised Code. 29658

(2) "Title V permit program" means the following activities 29659
as necessary to meet the requirements of Title V of the federal 29660

Clean Air Act and 40 C.F.R. part 70, including at least:	29661
(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;	29662 29663 29664
(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;	29665 29666 29667 29668
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	29669 29670 29671
(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;	29672 29673 29674
(e) Emission and ambient monitoring;	29675
(f) Modeling, analyses, or demonstrations;	29676
(g) Preparing inventories and tracking emissions;	29677
(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.	29678 29679 29680 29681 29682 29683 29684
(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	29685 29686 29687 29688 29689 29690

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 sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that

disposes of the sewage sludge shall pay the annual sludge fee. 29722
However, the facility transferring the sewage sludge shall pay the 29723
one-hundred-dollar minimum fee required under division (Y)(2)(a) 29724
of this section. 29725

In the case of a sewage sludge facility that treats sewage 29726
sludge in this state and transfers it out of this state to another 29727
entity for disposal, the sewage sludge facility in this state 29728
shall be required to pay the annual sludge fee for the tons of 29729
sewage sludge that have been transferred. 29730

(d) A sewage sludge facility that generates sewage sludge 29731
resulting from an average daily discharge flow of less than five 29732
thousand gallons per day is not subject to the fees assessed under 29733
division (Y) of this section. 29734

(3) No sewage sludge facility required to pay the annual 29735
sludge fee shall be required to pay more than the maximum annual 29736
fee for each disposal method that the sewage sludge facility uses. 29737
The maximum annual fee does not include the additional amount that 29738
may be charged under division (Y)(5) of this section for late 29739
payment of the annual sludge fee. The maximum annual fee for the 29740
following methods of disposal of sewage sludge is as follows: 29741

(a) Incineration: five thousand dollars; 29742

(b) Preexisting land reclamation project or disposal in a 29743
landfill: five thousand dollars; 29744

(c) Land application, land reclamation, surface disposal, or 29745
any other disposal method not specified in division (Y)(3)(a) or 29746
(b) of this section: twenty thousand dollars. 29747

(4)(a) In the case of an entity that generates sewage sludge 29748
or a sewage sludge facility that treats sewage sludge and 29749
transfers the sewage sludge to an incineration facility for 29750
disposal, the incineration facility, and not the entity generating 29751
the sewage sludge or the sewage sludge facility treating the 29752

sewage sludge, shall pay the annual sludge fee for the tons of 29753
sewage sludge that are transferred. However, the entity or 29754
facility generating or treating the sewage sludge shall pay the 29755
one-hundred-dollar minimum fee required under division (Y)(2)(a) 29756
of this section. 29757

(b) In the case of an entity that generates sewage sludge and 29758
transfers the sewage sludge to a landfill for disposal or to a 29759
sewage sludge facility for land reclamation or surface disposal, 29760
the entity generating the sewage sludge, and not the landfill or 29761
sewage sludge facility, shall pay the annual sludge fee for the 29762
tons of sewage sludge that are transferred. 29763

(5) Not later than the first day of April of the calendar 29764
year following March 17, 2000, and each first day of April 29765
thereafter, the director shall issue invoices to persons who are 29766
required to pay the annual sludge fee. The invoice shall identify 29767
the nature and amount of the annual sludge fee assessed and state 29768
the first day of May as the deadline for receipt by the director 29769
of objections regarding the amount of the fee and the first day of 29770
July as the deadline for payment of the fee. 29771

Not later than the first day of May following receipt of an 29772
invoice, a person required to pay the annual sludge fee may submit 29773
objections to the director concerning the accuracy of information 29774
regarding the number of dry tons of sewage sludge used to 29775
calculate the amount of the annual sludge fee or regarding whether 29776
the sewage sludge qualifies for the exceptional quality sludge 29777
discount established in division (Y)(2)(b) of this section. The 29778
director may consider the objections and adjust the amount of the 29779
fee to ensure that it is accurate. 29780

If the director does not adjust the amount of the annual 29781
sludge fee in response to a person's objections, the person may 29782
appeal the director's determination in accordance with Chapter 29783
119. of the Revised Code. 29784

Not later than the first day of June, the director shall 29785
notify the objecting person regarding whether the director has 29786
found the objections to be valid and the reasons for the finding. 29787
If the director finds the objections to be valid and adjusts the 29788
amount of the annual sludge fee accordingly, the director shall 29789
issue with the notification a new invoice to the person 29790
identifying the amount of the annual sludge fee assessed and 29791
stating the first day of July as the deadline for payment. 29792

Not later than the first day of July, any person who is 29793
required to do so shall pay the annual sludge fee. Any person who 29794
is required to pay the fee, but who fails to do so on or before 29795
that date shall pay an additional amount that equals ten per cent 29796
of the required annual sludge fee. 29797

(6) The director shall transmit all moneys collected under 29798
division (Y) of this section to the treasurer of state for deposit 29799
into the surface water protection fund created in section 6111.038 29800
of the Revised Code. The moneys shall be used to defray the costs 29801
of administering and enforcing provisions in Chapter 6111. of the 29802
Revised Code and rules adopted under it that govern the use, 29803
storage, treatment, or disposal of sewage sludge. 29804

(7) Beginning in fiscal year 2001, and every two years 29805
thereafter, the director shall review the total amount of moneys 29806
generated by the annual sludge fees to determine if that amount 29807
exceeded six hundred thousand dollars in either of the two 29808
preceding fiscal years. If the total amount of moneys in the fund 29809
exceeded six hundred thousand dollars in either fiscal year, the 29810
director, after review of the fee structure and consultation with 29811
affected persons, shall issue an order reducing the amount of the 29812
fees levied under division (Y) of this section so that the 29813
estimated amount of moneys resulting from the fees will not exceed 29814
six hundred thousand dollars in any fiscal year. 29815

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(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. "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.

(c) "Exceptional quality sludge" means sewage sludge that

meets all of the following qualifications:	29847
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	29848 29849
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	29850 29851
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	29852 29853
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	29854 29855
(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.	29856 29857 29858
(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.	29859 29860 29861
(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage 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.	29862 29863 29864 29865 29866
(g) "Land reclamation" means the returning of disturbed land to productive use.	29867 29868
(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.	29869 29870 29871 29872
(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.	29873 29874 29875 29876

(j) "Incineration facility" includes all incinerators owned 29877
or operated by the same entity and located on a contiguous tract 29878
of land. Areas of land are considered to be contiguous even if 29879
they are separated by a public road or highway. 29880

(k) "Annual sludge fee" means the fee assessed under division 29881
(Y)(1) of this section. 29882

(l) "Landfill" means a sanitary landfill facility, as defined 29883
in rules adopted under section 3734.02 of the Revised Code, that 29884
is licensed under section 3734.05 of the Revised Code. 29885

(m) "Preexisting land reclamation project" means a 29886
property-specific land reclamation project that has been in 29887
continuous operation for not less than five years pursuant to 29888
approval of the activity by the director and includes the 29889
implementation of a community outreach program concerning the 29890
activity. 29891

Sec. 3745.14. (A) As used in this section: 29892

(1) "Compliance review" means the review of an application 29893
for a permit, renewal of a permit, or plan approval, or 29894
modification thereof, for an existing or proposed facility, 29895
source, or activity and the accompanying engineering plans, 29896
specifications, and materials and information that are submitted 29897
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 29898
and rules adopted under them for compliance with performance 29899
standards under the applicable chapter and rules adopted under it. 29900
"Compliance review" does not include the review of an application 29901
for a hazardous waste facility installation and operation permit 29902
or the renewal or modification of such a permit, a permit to 29903
establish or modify an infectious waste treatment facility, a 29904
permit to install a solid waste incineration facility that also 29905
would treat infectious wastes, or a permit to modify a solid waste 29906

incineration facility to also treat infectious wastes under 29907
Chapter 3734. of the Revised Code. 29908

(2) "Engineer" includes both of the following: 29909

(a) A professional engineer registered under Chapter 4733. of 29910
the Revised Code; 29911

(b) A firm, partnership, association, or corporation 29912
providing engineering services in this state in compliance with 29913
Chapter 4733. of the Revised Code. 29914

(B) The director of environmental protection, in accordance 29915
with Chapter 119. of the Revised Code, shall adopt, and may amend 29916
and rescind, rules establishing a program for the certification of 29917
engineers to conduct compliance reviews. The rules, at a minimum, 29918
shall do all of the following: 29919

(1) Require that the program be administered by the director; 29920

(2) Establish eligibility criteria for certification to 29921
conduct compliance reviews; 29922

(3) Establish criteria for denying, suspending, and revoking 29923
certifications and renewals of certifications issued pursuant to 29924
rules adopted under division (B) of this section; 29925

(4) Require the periodic renewal of certifications issued 29926
pursuant to rules adopted under division (B) of this section; 29927

(5) Establish an application fee and fee for issuance for 29928
certifications under this section. The fees shall be established 29929
at a level calculated to defray the costs to the environmental 29930
protection agency for administering the certification program 29931
established by rules adopted under division (B) of this section. 29932
All such application and certification fees received by the 29933
director shall be deposited into the state treasury to the credit 29934
of the permit review fund created in division (E) of this section. 29935

(C) The director shall maintain a current list of all 29936

engineers who are certified to conduct compliance reviews pursuant 29937
to rules adopted under this section. The list shall indicate the 29938
types of permits, permit renewals, and plan approvals that each 29939
engineer is certified to review and the types or categories of 29940
facilities, sources, or activities in connection with which the 29941
engineer is certified to conduct the reviews. Upon request, the 29942
director shall provide a copy of the list to anyone requesting it. 29943

(D) An applicant for a permit, renewal of a permit, plan 29944
approval, or modification thereof, under Chapter 3704., 3734., 29945
6109., or 6111. of the Revised Code and applicable rules adopted 29946
under them, other than a hazardous waste facility installation and 29947
operation permit or renewal or modification of such a permit, a 29948
permit to establish or modify an infectious waste treatment 29949
facility, a permit to install a solid waste incineration facility 29950
that also would treat infectious wastes, or a permit to modify a 29951
solid waste incineration facility to also treat infectious wastes 29952
under Chapter 3734. of the Revised Code, may submit a written 29953
request to the director to have the compliance review conducted by 29954
an engineer certified under this section. The request shall 29955
accompany the permit application, shall indicate the applicant's 29956
choice from among the certified engineers on the director's list 29957
who are qualified to conduct the compliance review, shall be 29958
accompanied by separate certifications by the applicant and the 29959
engineer indicating that the applicant does not have and has not 29960
had during the preceding two years a financial interest in the 29961
engineer and has not employed or retained the engineer to perform 29962
services for the applicant during the preceding two years, and may 29963
be accompanied by a draft proposal for conducting the compliance 29964
review that was developed by the applicant and the engineer. No 29965
such draft proposal is binding upon the director. 29966

Within seven days after receiving a request under this 29967
division, the director shall do all of the following, as 29968

appropriate: 29969

(1) In the director's discretion, approve or disapprove the 29970
applicant's request to have the compliance review of the 29971
application conducted by an engineer on the list of certified 29972
engineers prepared under this section; 29973

(2) If the director approves the conducting of the compliance 29974
review by such a certified engineer, approve or disapprove, in the 29975
director's discretion, the applicant's choice of the engineer; 29976

(3) Mail written notice of decisions made under divisions 29977
(D)(1) and (2) of this section to the applicant. 29978

If the director fails to mail notice of the director's 29979
decisions on the request to the applicant within seven days after 29980
receiving the request, it is conclusively presumed that the 29981
director approved the applicant's request to have the compliance 29982
review conducted by a certified engineer and the applicant's 29983
choice of the engineer, and the director shall enter into a 29984
contract with the engineer chosen by the applicant. If the 29985
director disapproves the applicant's choice of an engineer and 29986
provides timely notice of the disapproval to the applicant, the 29987
director and applicant, by mutual agreement, shall select another 29988
engineer from the list prepared under this section to conduct the 29989
compliance review, and the director shall enter into a contract 29990
with that engineer. 29991

(E) The director may enter into contracts for conducting 29992
performance reviews under division (D) of this section without 29993
advertising for bids. The commencement of any work under such a 29994
contract shall be contingent upon the director's receipt of 29995
payment from the applicant of an amount that is equal to one 29996
hundred ten per cent of the amount specified in the contract, 29997
excluding contingencies for any additional work that may be needed 29998
to properly complete the review and that was not anticipated when 29999

the contract was made. Moneys received by the director from an 30000
applicant shall be deposited into the permit review fund, which is 30001
hereby created in the state treasury. The director shall use 30002
moneys in the fund to pay the cost of compliance reviews conducted 30003
pursuant to contracts entered into under division (D) of this 30004
section and to administer the certification program established 30005
under division (B) of this section. The director may use any 30006
moneys in the fund not needed for those purposes to administer the 30007
environmental laws or programs of this state. 30008

If, while conducting a compliance review, the engineer finds 30009
that work in addition to that upon which the cost under the 30010
contract was based, or any additional work previously authorized 30011
under this division, is needed to properly review the application 30012
and accompanying information for compliance with the applicable 30013
performance standards, the engineer shall notify the director of 30014
that fact and of the cost of the additional work, as determined 30015
pursuant to the terms of the contract. If the director finds that 30016
the additional work is needed and that the costs of performing the 30017
work have been determined in accordance with the terms of the 30018
contract, the director shall authorize the contractor to perform 30019
the work. Upon completion of the additional work, the contractor 30020
shall submit to the director an invoice for the cost of performing 30021
the additional work, and the director shall forward a copy of the 30022
invoice to the applicant. The applicant is liable to the state for 30023
an amount equal to one hundred ten per cent of the cost of 30024
performing the additional work and, within thirty days after 30025
receiving a copy of the invoice, shall pay to the director an 30026
amount equal to one hundred ten per cent of the amount indicated 30027
on the invoice. Upon receiving this payment, the director shall 30028
forward the moneys to the treasurer of state, who shall deposit 30029
them into the state treasury to the credit of the permit review 30030
fund. 30031

Until the applicant pays to the director the amount due in 30032
connection with the additional work, the director shall not issue 30033
to the applicant any permit, renewal of a permit, or plan 30034
approval, or modification thereof, for which an application is 30035
pending before the director. The director also may certify the 30036
unpaid amount to the attorney general and request that the 30037
attorney general bring a civil action against the applicant to 30038
recover that amount. Any moneys so recovered shall be deposited 30039
into the state treasury to the credit of the permit review fund. 30040

(F) Upon completing a compliance review conducted under this 30041
section, the engineer shall make a certification to the director 30042
as to whether the existing or proposed facility, source, activity, 30043
or modification will comply with the applicable performance 30044
standards. If the certification indicates that the existing or 30045
proposed facility, source, activity, or modification will not 30046
comply, the engineer shall include in the certification the 30047
engineer's findings as to the causes of the noncompliance. 30048

(G) When a compliance review is conducted by an engineer 30049
certified under this section, the other activities in connection 30050
with the consideration, approval, and issuance of the permit, 30051
renewal of the permit, or plan approval, or modification thereof, 30052
shall be conducted by the director ~~or, when applicable, the~~ 30053
~~hazardous waste facility board established in section 3734.05 of~~ 30054
~~the Revised Code,~~ in accordance with the applicable provisions of 30055
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 30056
rules adopted under the applicable chapter. 30057

(H) All expenses incurred by the attorney general in bringing 30058
a civil action under this section shall be reimbursed from the 30059
permit review fund in accordance with Chapter 109. of the Revised 30060
Code. 30061

Sec. 3745.15. Notwithstanding any provision of Chapter 3704., 30062

3734., 3746., or 6111. of the Revised Code to the contrary, not 30063
later than one hundred twenty days after receipt of an application 30064
for a permit under any of those chapters, the director of 30065
environmental protection shall either issue or deny the permit. 30066
The director shall send written notification to the applicant of 30067
the issuance or denial. 30068

The director may extend the period for issuing or denying the 30069
permit for an additional forty-five days if the director sends the 30070
applicant written notice that specifies the reasons for not 30071
issuing or denying the permit within the one-hundred-twenty-day 30072
period and provides an explanation of the review that remains to 30073
be completed in order to issue or deny the permit within the 30074
additional forty-five-day period. If the director fails to 30075
complete the review within that forty-five-day period, the 30076
director may request a final extension from the applicant of not 30077
more than forty-five days. If the applicant does not agree to such 30078
an extension, or if the director fails to issue or deny the permit 30079
by the end of the one-hundred-twenty-day period or any additional 30080
forty-five-day period, as applicable, the application is deemed 30081
approved, and the director shall issue the permit. The director 30082
shall send written notification to the applicant of the issuance. 30083

Sec. 3745.40. (A) There is hereby created the clean Ohio 30084
operating fund consisting of moneys credited to the fund in 30085
accordance with this section. The fund shall be used to pay the 30086
costs incurred by the director of environmental protection 30087
pursuant to sections 122.65 to 122.658 of the Revised Code. 30088
Investment earnings of the fund shall be credited to the fund. ~~For~~ 30089
~~two years after the effective date of this section, investment~~ 30090
~~earnings credited to the fund~~ and may be used to pay 30091
administrative costs incurred by the director pursuant to those 30092
sections. 30093

(B) Notwithstanding section 3746.16 of the Revised Code, upon the request of the director of environmental protection, the director of development shall certify to the director of budget and management the amount of excess investment earnings that are available to be transferred from the clean Ohio revitalization fund created in section 122.658 of the Revised Code to the clean Ohio operating fund. Upon certification, the director of budget and management may transfer from the clean Ohio revitalization fund to the clean Ohio operating fund an amount not exceeding the amount of the annual appropriation to the clean Ohio operating fund.

Sec. 3746.02. (A) Nothing in this chapter applies to any of the following:

(1) Property for which a voluntary action under this chapter is precluded by federal law or regulations adopted under federal law, including, without limitation, any of the following federal laws or regulations adopted thereunder:

(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;

(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;

(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.

(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter

3734. of the Revised Code or rules adopted under it; 30124

(3) Property or properties regardless of ownership that are 30125
subject to remediation rules adopted under the authority of the 30126
division of fire marshal in the department of ~~commerce, including~~ 30127
public safety or under the authority of the superintendent of 30128
industrial compliance under remediation rules adopted under 30129
sections 3737.88, 3737.882, and 3737.889 of the Revised Code; 30130

(4) Property that is subject to Chapter 1509. of the Revised 30131
Code; 30132

(5) Any other property if the director of environmental 30133
protection has issued a letter notifying the owner or operator of 30134
the property that ~~he~~ the director will issue an enforcement order 30135
under Chapter 3704., 3734., or 6111. of the Revised Code, a 30136
release or threatened release of a hazardous substance or 30137
petroleum from or at the property poses a substantial threat to 30138
public health or safety or the environment, and the person subject 30139
to the order does not present sufficient evidence to the director 30140
that ~~he~~ the person has entered into the voluntary action program 30141
under this chapter and is proceeding expeditiously to address that 30142
threat. For the purposes of this division, the evidence 30143
constituting sufficient evidence of entry into the voluntary 30144
action program under this chapter shall be defined by the director 30145
by rules adopted under section 3746.04 of the Revised Code. Until 30146
such time as the director has adopted those rules, the director, 30147
at a minimum, shall consider the existence of a contract with a 30148
certified professional to appropriately respond to the threat 30149
named in the director's letter informing the person of ~~his~~ the 30150
director's intent to issue an enforcement order and the 30151
availability of financial resources to complete the contract to be 30152
sufficient evidence of entry into the program. 30153

(B) The application of any provision of division (A) of this 30154
section to a portion of property does not preclude participation 30155

in the voluntary action program under this chapter in connection 30156
with other portions of the property where those provisions do not 30157
apply. 30158

(C) As used in this section, "property" means any parcel of 30159
real property, or portion thereof, and any improvements thereto. 30160

Sec. 3746.13. (A) For property that does not involve the 30161
issuance of a consolidated standards permit under section 3746.15 30162
of the Revised Code and where no engineering or institutional 30163
controls are used to comply with applicable standards, the 30164
director of environmental protection shall issue a covenant not to 30165
sue pursuant to section 3746.12 of the Revised Code by issuance of 30166
an order as a final action under Chapter 3745. of the Revised Code 30167
within thirty days after the director receives the no further 30168
action letter for the property and accompanying verification from 30169
the certified professional who prepared the letter under section 30170
3746.11 of the Revised Code. 30171

(B) For property that involves the issuance of a consolidated 30172
standards permit under section 3746.15 of the Revised Code or 30173
where engineering or institutional controls are used to comply 30174
with applicable standards, the director shall issue a covenant not 30175
to sue by issuance of an order as a final action under Chapter 30176
3745. of the Revised Code within ninety days after the director 30177
receives the no further action letter for the property and 30178
accompanying verification from the certified professional who 30179
prepared the letter. 30180

(C) Except as provided in division (D) of this section, each 30181
person who is issued a covenant not to sue under this section 30182
shall pay the fee established pursuant to rules adopted under 30183
division (B)(8) of section 3746.04 of the Revised Code. Until 30184
those rules become effective, each person who is issued a covenant 30185
not to sue shall pay a fee of two thousand dollars. The fee shall 30186

be paid to the director at the time that the no further action 30187
letter and accompanying verification are submitted to the 30188
director. 30189

(D) An applicant, as defined in section 122.65 of the Revised 30190
Code, who has entered into an agreement under section 122.653 of 30191
the Revised Code and who is issued a covenant not to sue under 30192
this section shall not be required to pay the fee for the issuance 30193
of a covenant not to sue established in rules adopted under 30194
division (B)(8) of section 3746.04 of the Revised Code. 30195

Sec. 3748.07. (A) Every facility that proposes to handle 30196
radioactive material or radiation-generating equipment for which 30197
licensure or registration, respectively, by its handler is 30198
required shall apply in writing to the director of health on forms 30199
prescribed and provided by the director for licensure or 30200
registration. Terms and conditions of licenses and certificates of 30201
registration may be amended in accordance with rules adopted under 30202
section 3748.04 of the Revised Code or orders issued by the 30203
director pursuant to section 3748.05 of the Revised Code. 30204

(B) Until rules are adopted under section 3748.04 of the 30205
Revised Code, an application for a certificate of registration 30206
shall be accompanied by a biennial registration fee of ~~one~~ two 30207
hundred ~~sixty~~ dollars. On and after the effective date of those 30208
rules, an applicant for a license, registration certificate, or 30209
renewal of either shall pay the appropriate fee established in 30210
those rules. 30211

All fees collected under this section shall be deposited in 30212
the state treasury to the credit of the general operations fund 30213
created in section 3701.83 of the Revised Code. The fees shall be 30214
used solely to administer and enforce this chapter and rules 30215
adopted under it. 30216

Any fee required under this section that has not been paid 30217

within ninety days after the invoice date shall be assessed at two 30218
times the original invoiced fee. Any fee that has not been paid 30219
within one hundred eighty days after the invoice date shall be 30220
assessed at five times the original invoiced fee. 30221

(C) The director shall grant a license or registration to any 30222
applicant who has paid the required fee and is in compliance with 30223
this chapter and rules adopted under it. 30224

Until rules are adopted under section 3748.04 of the Revised 30225
Code, certificates of registration shall be effective for two 30226
years from the date of issuance. On and after the effective date 30227
of those rules, licenses and certificates of registration shall be 30228
effective for the applicable period established in those rules. 30229
Licenses and certificates of registration shall be renewed in 30230
accordance with the standard renewal procedure established in 30231
Chapter 4745. of the Revised Code. 30232

Sec. 3748.13. (A) The director of health shall inspect 30233
sources of radiation for which licensure or registration by the 30234
handler is required, and the sources' shielding and surroundings, 30235
according to the schedule established in rules adopted under 30236
division (D) of section 3748.04 of the Revised Code. In accordance 30237
with rules adopted under that section, the director shall inspect 30238
all records and operating procedures of handlers that install 30239
sources of radiation and all sources of radiation for which 30240
licensure of radioactive material or registration of 30241
radiation-generating equipment by the handler is required. The 30242
director may make other inspections upon receiving complaints or 30243
other evidence of violation of this chapter or rules adopted under 30244
it. 30245

The director shall require any hospital registered under 30246
division (A) of section 3701.07 of the Revised Code to develop and 30247
maintain a quality assurance program for all sources of 30248

radiation-generating equipment. A certified radiation expert shall 30249
conduct oversight and maintenance of the program and shall file a 30250
report of audits of the program with the director on forms 30251
prescribed by the director. The audit reports shall become part of 30252
the inspection record. 30253

(B) Until rules are adopted under division (A)(8) of section 30254
3748.04 of the Revised Code, a facility shall pay inspection fees 30255
according to the following schedule and categories: 30256

First dental x-ray tube	\$ 94.00 <u>118.00</u>	30257
Each additional dental x-ray tube at the same location	\$ 47.00 <u>59.00</u>	30258
First medical x-ray tube	\$187.00 <u>235.00</u>	30259
Each additional medical x-ray tube at the same location	\$ 94.00 <u>125.00</u>	30260
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$373.00 <u>466.00</u>	30261
First nonionizing radiation-generating equipment of any kind	\$187.00 <u>235.00</u>	30262
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 94.00 <u>125.00</u>	30263
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$233.00 <u>291.00</u>	30264

Until rules are adopted under division (A)(8) of section 30265
3748.04 of the Revised Code, the fee for an inspection to 30266
determine whether violations cited in a previous inspection have 30267

been corrected is fifty per cent of the fee applicable under the 30268
schedule in this division. Until those rules are adopted, the fee 30269
for the inspection of a facility that is not licensed or 30270
registered and for which no license or registration application is 30271
pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ 30272
sixty-three dollars plus the fee applicable under the schedule in 30273
this division. 30274

The director may conduct a review of shielding plans or the 30275
adequacy of shielding on the request of a licensee or registrant 30276
or an applicant for licensure or registration or during an 30277
inspection when the director considers a review to be necessary. 30278
Until rules are adopted under division (A)(8) of section 3748.04 30279
of the Revised Code, the fee for the review is ~~four~~ five hundred 30280
~~sixty-six~~ eighty-three dollars for each room where a source of 30281
radiation is used and is in addition to any other fee applicable 30282
under the schedule in this division. 30283

All fees shall be paid to the department of health no later 30284
than thirty days after the invoice for the fee is mailed. Fees 30285
shall be deposited in the general operations fund created in 30286
section 3701.83 of the Revised Code. The fees shall be used solely 30287
to administer and enforce this chapter and rules adopted under it. 30288

Any fee required under this section that has not been paid 30289
within ninety days after the invoice date shall be assessed at two 30290
times the original invoiced fee. Any fee that has not been paid 30291
within one hundred eighty days after the invoice date shall be 30292
assessed at five times the original invoiced fee. 30293

(C) If the director determines that a board of health of a 30294
city or general health district is qualified to conduct 30295
inspections of radiation-generating equipment, the director may 30296
delegate to the board, by contract, the authority to conduct such 30297
inspections. In making a determination of the qualifications of a 30298
board of health to conduct those inspections, the director shall 30299

evaluate the credentials of the individuals who are to conduct the 30300
inspections of radiation-generating equipment and the radiation 30301
detection and measuring equipment available to them for that 30302
purpose. If a contract is entered into, the board shall have the 30303
same authority to make inspections of radiation-generating 30304
equipment as the director has under this chapter and rules adopted 30305
under it. The contract shall stipulate that only individuals 30306
approved by the director as qualified shall be permitted to 30307
inspect radiation-generating equipment under the contract's 30308
provisions. The contract shall provide for such compensation for 30309
services as is agreed to by the director and the board of health 30310
of the contracting health district. The director may reevaluate 30311
the credentials of the inspection personnel and their radiation 30312
detecting and measuring equipment as often as the director 30313
considers necessary and may terminate any contract with the board 30314
of health of any health district that, in the director's opinion, 30315
is not satisfactorily performing the terms of the contract. 30316

(D) The director may enter at all reasonable times upon any 30317
public or private property to determine compliance with this 30318
chapter and rules adopted under it. 30319

Sec. 3770.02. (A) Subject to the advice and consent of the 30320
senate, the governor shall appoint a director of the state lottery 30321
commission who shall serve at the pleasure of the governor. The 30322
director shall devote full time to the duties of the office and 30323
shall hold no other office or employment. The director shall meet 30324
all requirements for appointment as a member of the commission and 30325
shall by experience and training possess management skills that 30326
would equip the director to administer an enterprise of the nature 30327
of a state lottery. The director shall receive an annual salary in 30328
accordance with pay range 48 of section 124.152 of the Revised 30329
Code. 30330

(B)(1) The director shall attend all meetings of the 30331
commission and shall act as its secretary. The director shall keep 30332
a record of all commission proceedings and shall keep the 30333
commission's records, files, and documents at the commission's 30334
principal office. All records of the commission's meetings shall 30335
be available for inspection by any member of the public, upon a 30336
showing of good cause and prior notification to the director. 30337

(2) The director shall be the commission's executive officer 30338
and shall be responsible for keeping all commission records and 30339
supervising and administering the state lottery in accordance with 30340
this chapter, and carrying out all commission rules adopted under 30341
section 3770.03 of the Revised Code. 30342

(C)(1) The director shall appoint an assistant director and 30343
deputy directors of marketing, operations, sales, finance, public 30344
relations, security, and administration, and as many regional 30345
managers as are required. The director may also appoint necessary 30346
professional, technical, and clerical assistants. All such 30347
officers and employees shall be appointed and compensated pursuant 30348
to Chapter 124. of the Revised Code. Regional and assistant 30349
regional managers, sales representatives, and any lottery 30350
executive account representatives shall remain in the unclassified 30351
service. 30352

(2) The director, in consultation with the director of 30353
administrative services, may establish standards of proficiency 30354
and productivity for commission field representatives. 30355

(D) The director shall request the bureau of criminal 30356
identification and investigation, the department of public safety, 30357
or any other state, local, or federal agency to supply the 30358
director with the criminal records of any job applicant and may 30359
periodically request the criminal records of commission employees. 30360
At or prior to the time of making such a request, the director 30361

shall require a job applicant or commission employee to obtain 30362
fingerprint cards prescribed by the superintendent of the bureau 30363
of criminal identification and investigation at a qualified law 30364
enforcement agency, and the director shall cause these fingerprint 30365
cards to be forwarded to the bureau of criminal identification and 30366
investigation and the federal bureau of investigation. The 30367
commission shall assume the cost of obtaining the fingerprint 30368
cards and shall pay to each agency supplying criminal records for 30369
each investigation under this division a reasonable fee, as 30370
determined by the agency. 30371

(E) The director shall license lottery sales agents pursuant 30372
to section 3770.05 of the Revised Code and electronic lottery 30373
sales agents pursuant to section 3770.24 of the Revised Code and, 30374
when it is considered necessary, may revoke or suspend the license 30375
of any ~~lottery sales~~ such agent under this chapter. 30376

(F) The director shall confer at least once each month with 30377
the commission, at which time the director shall advise it 30378
regarding the operation and administration of the lottery. The 30379
director shall make available at the request of the commission all 30380
documents, files, and other records pertaining to the operation 30381
and administration of the lottery. The director shall prepare and 30382
make available to the commission each month a complete and 30383
accurate accounting of lottery revenues, prize money disbursements 30384
and the cost of goods and services awarded as prizes, operating 30385
expenses, and all other relevant financial information, including 30386
an accounting of all transfers made from any lottery funds in the 30387
custody of the treasurer of state to benefit education. 30388

(G) The director may enter into contracts for the operation 30389
or promotion of the lottery pursuant to Chapter 125. of the 30390
Revised Code. The director may enter into agreements to assist 30391
organizations that deal with problem gambling. 30392

(H)(1) Pursuant to rules adopted by the commission under 30393

section 3770.03 of the Revised Code, the director shall require 30394
~~any~~ lottery sales agents licensed under section 3770.05 of the 30395
Revised Code to either mail directly to the commission or deposit 30396
to the credit of the state lottery fund, in banking institutions 30397
designated by the treasurer of state, net proceeds due the 30398
commission as determined by the director, and to file with the 30399
director or the director's designee reports of their receipts and 30400
transactions in the sale of lottery tickets in the form required 30401
by the director. 30402

(2) Pursuant to rules adopted by the commission under Chapter 30403
119. of the Revised Code, the director may impose penalties for 30404
the failure of a sales agent to transfer funds to the commission 30405
in a timely manner. Penalties may include monetary penalties, 30406
immediate suspension or revocation of a license, or any other 30407
penalty the commission adopts by rule. 30408

(I) The director may arrange for any person, or any banking 30409
institution, to perform functions and services in connection with 30410
the operation of the lottery as the director may consider 30411
necessary to carry out this chapter. 30412

(J)(1) As used in this chapter, "statewide joint lottery 30413
game" means a lottery game that the commission sells solely within 30414
this state under an agreement with other lottery jurisdictions to 30415
sell the same lottery game solely within their statewide or other 30416
jurisdictional boundaries. 30417

(2) If the governor directs the director to do so, the 30418
director shall enter into an agreement with other lottery 30419
jurisdictions to conduct statewide joint lottery games. If the 30420
governor signs the agreement personally or by means of an 30421
authenticating officer pursuant to section 107.15 of the Revised 30422
Code, the director then may conduct statewide joint lottery games 30423
under the agreement. 30424

(3) The entire net proceeds from any statewide joint lottery games shall be used to fund elementary, secondary, vocational, and special education programs in this state. 30425
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(4) The commission shall conduct any statewide joint lottery games in accordance with rules it adopts under division (B)(5) of section 3770.03 of the Revised Code. 30428
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Sec. 3770.03. (A) The state lottery commission shall 30431
promulgate rules under which ~~a statewide lottery may~~ lotteries, 30432
including, but not limited to, games providing immediate prize 30433
determinations for individual participants through the use of 30434
electronic gaming devices, shall be conducted. The rules shall be 30435
promulgated pursuant to Chapter 119. of the Revised Code, except 30436
that instant game rules shall be promulgated pursuant to section 30437
111.15 of the Revised Code but are not subject to division (D) of 30438
that section. Subjects covered in these rules shall include, but 30439
need not be limited to, the following: 30440

(1) The type of ~~lottery~~ lotteries to be conducted; 30441

(2) The prices of ~~tickets~~ rights to participate in the 30442
~~lottery~~ lotteries; 30443

(3) The ~~number,~~ nature, and value of prize awards, the manner 30444
and frequency of prize ~~drawings~~ determinations, and the manner in 30445
which prizes shall be awarded to ~~holders of winning tickets~~ 30446
participants. 30447

(B) The commission shall promulgate rules, in addition to 30448
those described in division (A) of this section, pursuant to 30449
Chapter 119. of the Revised Code under which ~~a statewide lottery~~ 30450
~~and~~ statewide joint lottery games may, and lotteries, including, 30451
but not limited to, games providing immediate prize determinations 30452
for individual participants through the use of electronic gaming 30453
devices shall, be conducted. Subjects covered in these rules shall 30454

include, but not be limited to, the following: 30455

(1) The locations at which lottery tickets may be sold and 30456
the manner in which they are to be sold. These rules may authorize 30457
the sale of lottery tickets by commission personnel or other 30458
licensed individuals from traveling show wagons at the state fair, 30459
and at any other expositions the director of the commission 30460
considers acceptable. These rules shall prohibit commission 30461
personnel or other licensed individuals from soliciting from an 30462
exposition the right to sell lottery tickets at that exposition, 30463
but shall allow commission personnel or other licensed individuals 30464
to sell lottery tickets at an exposition if the exposition 30465
requests commission personnel or licensed individuals to do so. 30466
These rules may also address the accessibility of sales agent 30467
locations to commission products in accordance with the "Americans 30468
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 30469
et seq. 30470

(2) The manner in which lottery sales revenues are to be 30471
collected, including authorization for the director to impose 30472
penalties for failure by lottery sales agents, or, under section 30473
3770.28 of the Revised Code, by electronic lottery sales agents, 30474
to transfer revenues to the commission in a timely manner; 30475

(3) ~~The~~ Except as provided in section 3770.26 of the Revised 30476
Code, the amount of compensation to be paid licensed lottery sales 30477
agents; 30478

(4) The substantive criteria for the licensing of lottery 30479
sales agents consistent with section 3770.05 of the Revised Code, 30480
and procedures for revoking or suspending their licenses, or the 30481
licenses of electronic lottery sales agents issued under section 30482
3770.24 of the Revised Code, consistent with Chapter 119. of the 30483
Revised Code. If circumstances, such as the nonpayment of funds 30484
owed by a lottery sales agent or electronic lottery sales agent, 30485
or other circumstances related to the public safety, convenience, 30486

or trust, require immediate action, the director may suspend a 30487
license without affording an opportunity for a prior hearing under 30488
section 119.07 of the Revised Code. 30489

(5) Special game rules to implement any agreements signed by 30490
the governor that the director enters into with other lottery 30491
jurisdictions under division (J) of section 3770.02 of the Revised 30492
Code to conduct statewide joint lottery games. The rules shall 30493
require that the entire net proceeds of those games that remain, 30494
after associated operating expenses, prize disbursements, lottery 30495
sales agent bonuses, commissions, and reimbursements, and any 30496
other expenses necessary to comply with the agreements or the 30497
rules are deducted from the gross proceeds of those games, be 30498
transferred to the lottery profits education fund under division 30499
(B) of section 3770.06 of the Revised Code. 30500

~~(C)~~(6) The manner in which lotteries that use electronic 30501
gaming devices under section 3770.22 of the Revised Code must be 30502
conducted and the security, licensing, and enforcement procedures 30503
necessary to ensure the integrity of those lotteries; 30504

(7) Licensing requirements for key gaming employees of 30505
electronic lottery sales agents, as defined in section 3770.21 of 30506
the Revised Code, or agents' contractors that employ key gaming 30507
employees; provided that, the maximum initial or yearly fee for a 30508
license issued by the commission shall not exceed the commission's 30509
cost and expenses of investigation and licensing; 30510

(8) Any other subjects the commission determines are 30511
necessary for the conduct of lotteries under section 3770.22 of 30512
the Revised Code. 30513

(C) Chapter 2915. of the Revised Code does not apply to, 30514
affect, or prohibit lotteries conducted pursuant to this chapter. 30515

(D)(1) The commission may not conduct, directly or in 30516
conjunction with any lottery sales agent or electronic lottery 30517

sales agent, the following live casino table games: 30518

(a) Card games, including poker, blackjack, twenty-one, 30519
casino war, or baccarat, played with persons dealing cards and 30520
participants wagering on outcomes determined by the dealt cards; 30521

(b) Roulette, wheel of fortune, or any other game played with 30522
persons spinning wheels and participants wagering upon outcomes 30523
determined by a spinning wheel; 30524

(c) Craps, mah jong, sic bo, or any other game played with 30525
persons casting or dealing dice, tiles, or similar objects, and 30526
participants wagering on outcomes determined by the location or 30527
appearance of the objects cast. 30528

(2) The commission may conduct lotteries replicating card 30529
games, spinning-wheel games, or cast object games by electronic 30530
gaming devices pursuant to section 3770.22 of the Revised Code. 30531

(E)(1) The commission shall meet with the director at least 30532
once each month and shall convene other meetings at the request of 30533
the chairperson or any five of the members. No action taken by the 30534
commission shall be binding unless at least five of the members 30535
present vote in favor of the action. A written record shall be 30536
made of the proceedings of each meeting and shall be transmitted 30537
forthwith to the governor, the president of the senate, the senate 30538
minority leader, the speaker of the house of representatives, and 30539
the house minority leader. 30540

(2) The director shall present to the commission a report 30541
each month, showing the total revenues, prize disbursements, and 30542
operating expenses of the state lottery for the preceding month. 30543
As soon as practicable after the end of each fiscal year, the 30544
commission shall prepare and transmit to the governor and the 30545
general assembly a report of lottery revenues, prize 30546
disbursements, and operating expenses for the preceding fiscal 30547
year and any recommendations for legislation considered necessary 30548

by the commission. 30549

Sec. 3770.05. (A) As used in this section, "person" means any 30550
person, association, corporation, partnership, club, trust, 30551
estate, society, receiver, trustee, person acting in a fiduciary 30552
or representative capacity, instrumentality of the state or any of 30553
its political subdivisions, or any other combination of 30554
individuals meeting the requirements set forth in this section or 30555
established by rule or order of the commission. 30556

(B) The director of the state lottery commission may license 30557
any person as a lottery sales agent for the sale of lottery 30558
tickets. No license shall be issued to any person or group of 30559
persons to engage in the sale of lottery tickets as the person's 30560
or group's sole occupation or business. 30561

Before issuing any license to a lottery sales agent for the 30562
sale of lottery tickets, the director shall consider the 30563
following: 30564

(1) The financial responsibility and security of the person 30565
and the person's business or activity; 30566

(2) The accessibility of the agent's place of business or 30567
activity to the public; 30568

(3) The sufficiency of existing licensed agents to serve the 30569
public interest; 30570

(4) The volume of expected sales by the applicant; 30571

(5) Any other factors pertaining to the public interest, 30572
convenience, or trust. 30573

(C) Except as otherwise provided in division (F) of this 30574
section, the director shall refuse to grant, or shall suspend or 30575
revoke, a license issued under this section, if the applicant or 30576
licensee: 30577

(1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude;	30578 30579
(2) Has been convicted of an offense that involves illegal gambling;	30580 30581
(3) Has been found guilty of fraud or misrepresentation in any connection;	30582 30583
(4) Has been found to have violated any rule or order of the commission;	30584 30585
(5) Has been convicted of illegal trafficking in food stamps.	30586
(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license <u>issued under this section</u> , if the applicant or licensee is a corporation:	30587 30588 30589 30590
(1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section;	30591 30592 30593
(2) In which it appears to the director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;	30594 30595 30596 30597 30598
(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a shareholder, or will participate in the management of the affairs of the applicant.	30599 30600 30601 30602 30603 30604 30605
(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee <u>under this</u>	30606 30607

section if the applicant or licensee is or has been convicted of a 30608
violation of division (A) or (C)(1) of section 2913.46 of the 30609
Revised Code. 30610

(2) The director shall refuse to grant a license to an 30611
applicant that is a corporation and shall revoke the license of a 30612
licensee under this section that is a corporation, if the 30613
corporation is or has been convicted of a violation of division 30614
(A) or (C)(1) of ~~a violation of~~ section 2913.46 of the Revised 30615
Code. 30616

(F) The director shall request the bureau of criminal 30617
identification and investigation, the department of public safety, 30618
or any other state, local, or federal agency to supply the 30619
director with the criminal records of any applicant for a lottery 30620
sales agent license, and may periodically request ~~such~~ those 30621
records of any person to whom ~~such~~ a lottery sales agent license 30622
has been issued. At or prior to the time of making such a request, 30623
the director shall require an applicant or licensee to obtain 30624
fingerprint cards prescribed by the superintendent of the bureau 30625
of criminal identification and investigation at a qualified law 30626
enforcement agency, and the director shall cause these fingerprint 30627
cards to be forwarded to the bureau of criminal identification and 30628
investigation and the federal bureau of investigation. The 30629
commission shall assume the cost of obtaining the fingerprint 30630
cards. The director shall pay to each agency supplying ~~such~~ 30631
records for each investigation a reasonable fee, as determined by 30632
the agency. The commission may adopt uniform rules specifying time 30633
periods after which the persons described in divisions (C)(1) to 30634
(4) and (D)(1) to (3) of this section may be issued a license and 30635
establishing requirements for ~~such~~ those persons to seek a court 30636
order to have records sealed in accordance with law. 30637

(G)(1) Each applicant for a lottery sales agent license for 30638
the sale of lottery tickets shall do both of the following: 30639

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application; 30640
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(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. 30642
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(2) A lottery sales agent license for the sale of lottery tickets is effective for one year. A licensed lottery sales agent shall, on or before the date established by the director, renew the agent's license and provide at that time evidence to the director that the surety bond required under division ~~(F)~~(G)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond. 30647
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The relationship between the state lottery commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation. 30655
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(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license for the sale of lottery tickets, subject to ~~such~~ the terms and conditions ~~as~~ the director may consider appropriate. 30659
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(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes, and the rental agreement does not expressly provide that the amount of ~~such~~ those retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from 30663
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the retail sales the agent makes, for the purpose of computing the 30671
agent's rental payments. 30672

Sec. 3770.05. (A) As used in this section, "person" means any 30673
person, association, corporation, partnership, club, trust, 30674
estate, society, receiver, trustee, person acting in a fiduciary 30675
or representative capacity, instrumentality of the state or any of 30676
its political subdivisions, or any other combination of 30677
individuals meeting the requirements set forth in this section or 30678
established by rule or order of the commission. 30679

(B) The director of the state lottery commission may license 30680
any person as a lottery sales agent for the sale of lottery 30681
tickets. No license shall be issued to any person or group of 30682
persons to engage in the sale of lottery tickets as the person's 30683
or group's sole occupation or business. 30684

Before issuing any license to a lottery sales agent for the 30685
sale of lottery tickets, the director shall consider the 30686
following: 30687

(1) The financial responsibility and security of the person 30688
and the person's business or activity; 30689

(2) The accessibility of the agent's place of business or 30690
activity to the public; 30691

(3) The sufficiency of existing licensed agents to serve the 30692
public interest; 30693

(4) The volume of expected sales by the applicant; 30694

(5) Any other factors pertaining to the public interest, 30695
convenience, or trust. 30696

(C) Except as otherwise provided in division (F) of this 30697
section, the director shall refuse to grant, or shall suspend or 30698
revoke, a license issued under this section, if the applicant or 30699
licensee: 30700

(1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude; 30701
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(2) Has been convicted of an offense that involves illegal gambling; 30703
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(3) Has been found guilty of fraud or misrepresentation in any connection; 30705
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(4) Has been found to have violated any rule or order of the commission; 30707
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(5) Has been convicted of illegal trafficking in food stamps. 30709

(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license issued under this section, if the applicant or licensee is a corporation: 30710
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(1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section; 30714
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(2) In which it appears to the director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust; 30717
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(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a shareholder, or will participate in the management of the affairs of the applicant. 30722
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(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee under this 30729
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section if the applicant or licensee is or has been convicted of a 30731
violation of division (A) or (C)(1) of section 2913.46 of the 30732
Revised Code. 30733

(2) The director shall refuse to grant a license to an 30734
applicant that is a corporation and shall revoke the license of a 30735
licensee under this section that is a corporation, if the 30736
corporation is or has been convicted of a violation of division 30737
(A) or (C)(1) of ~~a violation of~~ section 2913.46 of the Revised 30738
Code. 30739

(F) The director shall request the bureau of criminal 30740
identification and investigation, the department of public safety, 30741
or any other state, local, or federal agency to supply the 30742
director with the criminal records of any applicant for a lottery 30743
sales agent license, and may periodically request ~~such~~ those 30744
records of any person to whom ~~such~~ a lottery sales agent license 30745
has been issued. At or prior to the time of making such a request, 30746
the director shall require an applicant or licensee to obtain 30747
fingerprint cards prescribed by the superintendent of the bureau 30748
of criminal identification and investigation at a qualified law 30749
enforcement agency, and the director shall cause these fingerprint 30750
cards to be forwarded to the bureau of criminal identification and 30751
investigation and the federal bureau of investigation. The 30752
commission shall assume the cost of obtaining the fingerprint 30753
cards. The director shall pay to each agency supplying ~~such~~ 30754
records for each investigation a reasonable fee, as determined by 30755
the agency. The commission may adopt uniform rules specifying time 30756
periods after which the persons described in divisions (C)(1) to 30757
(4) and (D)(1) to (3) of this section may be issued a license and 30758
establishing requirements for ~~such~~ those persons to seek a court 30759
order to have records sealed in accordance with law. 30760

(G)(1) Each applicant for a lottery sales agent license for 30761
the sale of lottery tickets shall do both of the following: 30762

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application; 30763
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(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. 30765
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(2) A lottery sales agent license for the sale of lottery tickets is effective for one year. A licensed lottery sales agent shall, on or before the date established by the director, renew the agent's license and provide at that time evidence to the director that the surety bond required under division ~~(F)~~(G)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond. 30770
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The relationship between the state lottery commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation. 30778
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(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license for the sale of lottery tickets, subject to ~~such~~ the terms and conditions ~~as~~ the director may consider appropriate. 30782
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(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes, and the rental agreement does not expressly provide that the amount of ~~such~~ those retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from 30786
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the retail sales the agent makes, for the purpose of computing the 30794
agent's rental payments. 30795

Sec. 3770.06. (A) There is hereby created the state lottery 30796
gross revenue fund, which shall be in the custody of the treasurer 30797
of state, but shall not be part of the state treasury. All gross 30798
revenues received from sales of ~~lottery tickets~~ rights to 30799
participate in lotteries, fines, fees, and related proceeds in 30800
connection with the statewide lottery and all gross proceeds from 30801
statewide joint lottery games shall be deposited into the fund. 30802
The treasurer of state shall invest any portion of the fund not 30803
needed for immediate use in the same manner as, and subject to all 30804
provisions of law with respect to the investment of, state funds. 30805
The treasurer of state shall disburse money from the fund on order 30806
of the director of the state lottery commission or the director's 30807
designee. 30808

Except for gross proceeds from statewide joint lottery games, 30809
all revenues of the state lottery gross revenue fund that are not 30810
paid to ~~holders of winning lottery tickets~~ participants, that are 30811
not required to meet short-term prize liabilities, that are not 30812
credited to lottery sales agents or electronic lottery sales 30813
agents in the form of bonuses, commissions, or reimbursements, 30814
that are not necessary for procuring, installing, maintaining, 30815
servicing, operating, repairing, advertising, promoting, and 30816
replacing electronic gaming devices, associated equipment, and 30817
central communications systems under section 3770.27 of the 30818
Revised Code, that are not paid to financial institutions to 30819
reimburse those institutions for sales agent nonsufficient funds, 30820
that are not disbursed under this division to the department of 30821
alcohol and drug addiction services, and that are not collected 30822
from sales agents for remittance to insurers under contract to 30823
provide sales agent bonding services shall be transferred to the 30824
state lottery fund, which is hereby created in the state treasury. 30825

In addition, all revenues of the state lottery gross revenue fund 30826
that represent the gross proceeds from the statewide joint lottery 30827
games and that are not paid to holders of winning lottery tickets, 30828
that are not required to meet short-term prize liabilities, that 30829
are not credited to lottery sales agents in the form of bonuses, 30830
commissions, or reimbursements, and that are not necessary to 30831
cover operating expenses associated with those games or to 30832
otherwise comply with the agreements signed by the governor that 30833
the director enters into under division (J) of section 3770.02 of 30834
the Revised Code or the rules the commission adopts under division 30835
(B)(5) of section 3770.03 of the Revised Code shall be transferred 30836
to the state lottery fund. All investment earnings of the fund 30837
shall be credited to the fund. Moneys shall be disbursed from the 30838
fund pursuant to vouchers approved by the director. Total 30839
disbursements for monetary prize awards to holders of winning 30840
lottery tickets in connection with the statewide lottery and 30841
purchases of goods and services awarded as prizes to holders of 30842
winning lottery tickets shall be of an amount equal to at least 30843
fifty per cent of the total revenue accruing from the sale of 30844
lottery tickets. 30845

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 30846
there is hereby established in the state treasury the lottery 30847
profits education fund. Whenever, in the judgment of the director 30848
of budget and management, the amount to the credit of the state 30849
lottery fund that does not represent proceeds from statewide joint 30850
lottery games is in excess of that needed to meet the maturing 30851
obligations of the commission and as working capital for its 30852
further operations, the director shall transfer the excess to the 30853
lottery profits education fund in connection with the statewide 30854
lottery. In addition, whenever, in the judgment of the director of 30855
budget and management, the amount to the credit of the state 30856
lottery fund that represents proceeds from statewide joint lottery 30857
games equals the entire net proceeds of those games as described 30858

in division (B)(5) of section 3770.03 of the Revised Code and the 30859
rules adopted under that division, the director shall transfer 30860
those proceeds to the lottery profits education fund. There shall 30861
also be credited to the fund any repayments of moneys loaned from 30862
the educational excellence investment fund. Investment earnings of 30863
the lottery profits education fund shall be credited to the fund. 30864

The lottery profits education fund shall be used solely for 30865
the support of elementary, secondary, vocational, and special 30866
education programs as determined in appropriations made by the 30867
general assembly, or as provided in applicable bond proceedings 30868
for the payment of debt service on obligations issued to pay costs 30869
of capital facilities, including those for a system of common 30870
schools throughout the state pursuant to section 2n of Article 30871
VIII, Ohio Constitution. When determining the availability of 30872
money in the lottery profits education fund, the director of 30873
budget and management may consider all balances and estimated 30874
revenues of the fund. 30875

From the amounts that the director of budget and management 30876
transfers in any fiscal year from the state lottery fund to the 30877
lottery profits education fund, the director shall transfer the 30878
initial ten million dollars of those amounts from the lottery 30879
profits education fund to the school building program bond service 30880
fund created in division (Q) of section 3318.26 of the Revised 30881
Code to be pledged for the purpose of paying bond service charges 30882
as defined in division (C) of section 3318.21 of the Revised Code 30883
on one or more issuances of obligations, which obligations are 30884
issued to provide moneys for the school building program 30885
assistance fund created in section 3318.25 of the Revised Code. 30886

(C) There is hereby established in the state treasury the 30887
deferred prizes trust fund. With the approval of the director of 30888
budget and management, an amount sufficient to fund annuity prizes 30889
shall be transferred from the state lottery fund and credited to 30890

the trust fund. The treasurer of state shall credit all earnings 30891
arising from investments purchased under this division to the 30892
trust fund. Within sixty days after the end of each fiscal year, 30893
the director of budget and management shall certify the amount of 30894
investment earnings necessary to have been credited to the trust 30895
fund during the fiscal year just ending to provide for continued 30896
funding of deferred prizes. Any earnings credited in excess of 30897
this certified amount shall be transferred to the lottery profits 30898
education fund. 30899

To provide all or a part of the amounts necessary to fund 30900
deferred prizes awarded by the commission in connection with the 30901
statewide lottery, the treasurer of state, in consultation with 30902
the commission, may invest moneys contained in the deferred prizes 30903
trust fund ~~which represents~~ that represent proceeds from the 30904
statewide lottery in obligations of the type permitted for the 30905
investment of state funds but whose maturities are thirty years or 30906
less. Notwithstanding the requirements of any other section of the 30907
Revised Code, to provide all or part of the amounts necessary to 30908
fund deferred prizes awarded by the commission in connection with 30909
statewide joint lottery games, the treasurer of state, in 30910
consultation with the commission, may invest moneys in the trust 30911
fund ~~which~~ that represent proceeds derived from the statewide 30912
joint lottery games in accordance with the rules the commission 30913
adopts under division (B)(5) of section 3770.03 of the Revised 30914
Code. Investments of the trust fund are not subject to the 30915
provisions of division (A)(10) of section 135.143 of the Revised 30916
Code limiting to twenty-five per cent the amount of the state's 30917
total average portfolio that may be invested in debt interests and 30918
limiting to one-half of one per cent the amount that may be 30919
invested in debt interests of a single issuer. 30920

All purchases made under this division shall be effected on a 30921
delivery versus payment method and shall be in the custody of the 30922

treasurer of state. 30923

The treasurer of state may retain an investment advisor, if 30924
necessary. The commission shall pay any costs incurred by the 30925
treasurer of state in retaining an investment advisor. 30926

(D) The auditor of state shall conduct annual audits of all 30927
funds and any other audits as the auditor of state or the general 30928
assembly considers necessary. The auditor of state may examine all 30929
records, files, and other documents of the commission, and records 30930
of lottery sales agents, and of electronic lottery sales agents 30931
licensed under section 3770.24 of the Revised Code, that pertain 30932
to their activities as agents, for purposes of conducting 30933
authorized audits. 30934

The state lottery commission shall establish an internal 30935
audit program before the beginning of each fiscal year, subject to 30936
the approval of the auditor of state. At the end of each fiscal 30937
year, the commission shall prepare and submit an annual report to 30938
the auditor of state for the auditor of state's review and 30939
approval, specifying the internal audit work completed by the end 30940
of that fiscal year and reporting on compliance with the annual 30941
internal audit program. The form and content of the report shall 30942
be prescribed by the auditor of state under division (C) of 30943
section 117.20 of the Revised Code. 30944

(E) Whenever, in the judgment of the director of budget and 30945
management, an amount of net state lottery proceeds is necessary 30946
to be applied to the payment of debt service on obligations, all 30947
as defined in sections 151.01 and 151.03 of the Revised Code, the 30948
director shall transfer that amount directly from the state 30949
lottery fund or from the lottery profits education fund to the 30950
bond service fund defined in those sections. The provisions of 30951
this division are subject to any prior pledges or obligation of 30952
those amounts to the payment of bond service charges as defined in 30953
division (C) of section 3318.21 of the Revised Code, as referred 30954

to in division (B) of this section. 30955

Sec. 3770.061. Each month, the director of the lottery 30956
commission shall order the treasurer of state to disburse to the 30957
department of alcohol and drug addiction services money from the 30958
state lottery gross revenue fund in an amount equal to one-half of 30959
one per cent of the gross proceeds attributed to lotteries 30960
conducted under section 3770.22 of the Revised Code during the 30961
preceding month. The department shall use this amount for the 30962
treatment and prevention of problem gambling. 30963

Sec. 3770.07. (A)~~(1)~~ Lottery prize awards shall be claimed by 30964
~~the holder of the winning lottery ticket~~ participants, or by the 30965
executor or administrator, or the trustee of a trust, of the 30966
estate of a deceased holder of a winning ticket, in a manner to be 30967
determined by the state lottery commission, within one hundred 30968
eighty days after the date on which such prize award was announced 30969
if the lottery game is an on-line game, and within one hundred 30970
eighty days after the close of the game if the lottery game is an 30971
instant game. ~~Except as otherwise provided in division (B) of this~~ 30972
~~section, if~~ If no valid claim to the prize award is made within 30973
the prescribed period, the prize money or the cost of goods and 30974
services awarded as prizes, or if such goods or services are 30975
resold by the commission, the proceeds from such sale, shall be 30976
returned to the state lottery fund and distributed in accordance 30977
with section 3770.06 of the Revised Code. 30978

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 30979
the Revised Code, is under eighteen years of age, or is under some 30980
other legal disability, and the prize money or the cost of goods 30981
or services awarded as a prize exceeds one thousand dollars, the 30982
director shall order that payment be made to the order of the 30983
legal guardian of that prize winner. If the amount of the prize 30984
money or the cost of goods or services awarded as a prize is one 30985

thousand dollars or less, the director may order that payment be 30986
made to the order of the adult member, if any, of that prize 30987
winner's family legally responsible for the care of that prize 30988
winner. 30989

~~(3)~~(C) No right of any prize winner, as defined in section 30990
3770.10 of the Revised Code, to a prize award shall be the subject 30991
of a security interest or used as collateral. 30992

~~(4)~~(a)(D)(1) No right of any prize winner, as defined in 30993
section 3770.10 of the Revised Code, to a prize award shall be 30994
assignable, or subject to garnishment, attachment, execution, 30995
withholding, or deduction, except as follows: as provided in 30996
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 30997
Revised Code; when the payment is to be made to the executor or 30998
administrator or the trustee of a trust of the estate of a winning 30999
ticket holder; when the award of a prize is disputed, any person 31000
may be awarded a prize award to which another has claimed title, 31001
pursuant to the order of a court of competent jurisdiction; when 31002
the director is to make a payment pursuant to ~~section~~ sections 31003
3770.071 or 3770.073 of the Revised Code; or as provided in 31004
sections 3770.10 to 3770.14 of the Revised Code. 31005

~~(b)~~(2) The commission shall adopt rules pursuant to section 31006
3770.03 of the Revised Code concerning the payment of prize awards 31007
upon the death of a prize winner. Upon the death of a prize 31008
winner, as defined in section 3770.10 of the Revised Code, the 31009
remainder of the prize winner's prize award, to the extent it is 31010
not subject to a transfer agreement under sections 3770.10 to 31011
3770.14 of the Revised Code, may be paid to the executor, 31012
administrator, or trustee in the form of a discounted lump sum 31013
cash settlement. 31014

~~(5)~~(E) No lottery prize award shall be awarded to or for any 31015
officer or employee of the state lottery commission, any officer 31016
or employee of the auditor of state actively auditing. 31017

coordinating ~~and~~ , or certifying commission ~~drawings~~ lotteries, or 31018
any blood relative or spouse of such officer or employee of the 31019
commission or auditor of state living as a member of such 31020
officer's or employee's household, nor shall any such employee, 31021
blood relative, or spouse attempt to claim a lottery prize award. 31022

~~(6)~~(F) The director may prohibit vendors to the commission 31023
and their employees from being awarded a lottery prize award. 31024

~~(7)~~(G) Upon the payment of prize awards pursuant to this 31025
section or section 3770.28 of the Revised Code, the director ~~and~~, 31026
the commission and electronic lottery sales agent are discharged 31027
from all further liability ~~therefor~~ for the payment of prize 31028
awards. 31029

~~(B) The commission may adopt rules governing the disbursement 31030
of unclaimed prize awards as all or part of the prize award in a 31031
lottery and may, pursuant to those rules, conduct the lottery and 31032
disburse any such unclaimed prize awards. Any lottery in which all 31033
or any part of the prize award is paid from unclaimed prize awards 31034
shall be conducted in accordance with all of the other 31035
requirements of this chapter, including, but not limited to, the 31036
time and proof requirements for claiming awards and the 31037
disposition of unclaimed prize awards when the prescribed period 31038
for claiming the award has passed. A prize award or any part of a 31039
prize award that is paid from an unclaimed prize award shall not 31040
be reapplied toward the satisfaction of the requirement of 31041
division (A) of section 3770.06 of the Revised Code that at least 31042
fifty per cent of the total revenues from ticket sales be 31043
disbursed for monetary prize awards, if such unclaimed prize award 31044
was previously applied toward the satisfaction of that 31045
requirement. On or before the last day of January and July each 31046
year, the commission shall report to the general assembly the 31047
gross sales and net profits the commission obtained from the 31048
unclaimed prize awards in lotteries conducted pursuant to this 31049~~

~~division during the preceding two calendar quarters, including the 31050
amount of money produced by the games funded by the unclaimed 31051
prize awards and the total revenue accruing to the state from the 31052
prize award lotteries conducted pursuant to this division. 31053~~

~~There is hereby established in the state treasury the 31054
unclaimed lottery prizes fund, to which all unclaimed prize awards 31055
shall be transferred. Any interest that accrues on the amounts in 31056
the fund shall become a part of the fund and shall be subject to 31057
any rules adopted by the commission governing the disbursement of 31058
unclaimed prize awards. 31059~~

Sec. 3770.073. (A) If a person is entitled to a lottery prize 31060
award and is indebted to the state for the payment of any tax, 31061
workers' compensation premium, unemployment contribution, payment 31062
in lieu of unemployment contribution, or charge, penalty, or 31063
interest arising from these debts and the amount of the prize 31064
money or the cost of goods or services awarded as a lottery prize 31065
award is one hundred dollars or more, the director of the state 31066
lottery commission, or the director's designee, shall do either of 31067
the following: 31068

(1) If the prize award will be paid in a lump sum, deduct 31069
from the prize award and pay to the attorney general an amount in 31070
satisfaction of the debt and pay any remainder to that person. If 31071
the amount of the prize award is less than the amount of the debt, 31072
the entire amount of the prize award shall be deducted and paid in 31073
partial satisfaction of the debt. 31074

(2) If the prize award will be paid in annual installments, 31075
on the date the initial installment payment is due, deduct from 31076
that installment and pay to the attorney general an amount in 31077
satisfaction of the debt and, if necessary to collect the full 31078
amount of the debt, do the same for any subsequent annual 31079
installments, at the time the installments become due and owing to 31080

the person, until the debt is fully satisfied. 31081

(B) If a person entitled to a lottery prize award owes more than one debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. 31082
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(C) This section applies only to debts that have become final. 31085
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Sec. 3770.08. (A) No person shall sell a lottery ticket at a price greater than that fixed by rule of the state lottery commission. 31087
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(B) No person other than a licensed lottery sales agent or electronic lottery sales agent shall sell ~~lottery tickets~~ rights to participate in lotteries, but nothing in this section shall be construed to prevent any person from giving ~~lottery tickets~~ rights to participate in lotteries to another as a gift. A transfer of ~~lottery tickets~~ rights to participate in lotteries by any person ~~which that~~ is made in connection with a marketing, promotional, or advertising program shall be deemed to be a gift for the purposes of this chapter. 31090
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(C) No person shall sell a lottery ticket to any person under eighteen years of age, and no person under eighteen years of age shall attempt to purchase a lottery ticket. No person shall sell rights to participate in lotteries conducted under section 3770.22 of the Revised Code to any person under twenty-one years of age, and no person under that age shall attempt to purchase rights to participate in lotteries conducted under that section. 31099
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(D) No person, directly or indirectly, on behalf of self, or another, nor any organization, shall invite, solicit, demand, offer, or accept any payment, contribution, favor, or other consideration to influence the award, renewal, or retention of a lottery sales or electronic lottery sales agent license. 31106
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(E) Except as otherwise provided in this division, no person shall sell lottery tickets on any fairgrounds during any annual exhibition conducted in accordance with Chapter 991. or 1711. of the Revised Code. "Fairgrounds" includes any land or property under the control or management of any agricultural society or of the Ohio expositions commission. This division does not apply to the sale of lottery tickets by the commission at the state fairground during the state fair.

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 31141
not affected by whether or not a transfer of a lottery prize award 31142
occurs. 31143

(D) "Prize winner" means any person that holds the right to 31144
receive all or any part of a lottery prize award as a result of 31145
being any of the following: 31146

(1) A person who is a claimant under division (A)~~(1)~~ of 31147
section 3770.07 of the Revised Code; 31148

(2) A person who is entitled to a prize award and who is 31149
under a legal disability as described in division ~~(A)(2)~~(B) of 31150
section 3770.07 of the Revised Code; 31151

(3) A person who was awarded a prize award to which another 31152
has claimed title by a court order under division ~~(A)(4)(a)~~(D)(1) 31153
of section 3770.07 of the Revised Code; 31154

(4) A person who is receiving payments upon the death of a 31155
prize winner as provided in division ~~(A)(4)(b)~~(D)(2) of section 31156
3770.07 of the Revised Code. 31157

(E) "Transfer" means any form of sale, assignment, or 31158
redirection of payment of all or any part of a lottery prize award 31159
for consideration. 31160

(F) "Transfer agreement" means an agreement that is complete 31161
and valid, and that provides for the transfer of all or any part 31162
of a lottery prize award from a transferor to a transferee. A 31163
transfer agreement is incomplete and invalid unless the agreement 31164
contains both of the following: 31165

(1) A statement, signed by the transferor under penalties of 31166
perjury, that the transferor irrevocably agrees that the 31167
transferor is subject to the tax imposed by Chapter 5733. or 5747. 31168
of the Revised Code with respect to gain or income which the 31169
transferor will recognize in connection with the transfer. If the 31170

transferor is a pass-through entity, as defined in section 5733.04 31171
of the Revised Code, each investor in the pass-through entity 31172
shall also sign under penalties of perjury a statement that the 31173
investor irrevocably agrees that the investor is subject to the 31174
tax imposed by Chapter 5733. or 5747. of the Revised Code with 31175
respect to gain or income which the transferor and the investor 31176
will recognize in connection with the transfer. 31177

(2) A statement, signed by the transferee, that the 31178
transferee irrevocably agrees that the transferee is subject to 31179
the withholding requirements imposed by division (C) of section 31180
3770.072 of the Revised Code and is subject to the tax imposed by 31181
Chapter 5733. or 5747. of the Revised Code with respect to gain or 31182
income which the transferee will recognize in connection with 31183
lottery prize awards to be received as a result of the transfer. 31184
If the transferee is a pass-through entity, as defined in section 31185
5733.04 of the Revised Code, each investor in the pass-through 31186
entity shall also sign under penalties of perjury a statement 31187
setting forth that the investor irrevocably agrees that the 31188
investor is subject to the withholding requirements imposed by 31189
division (C) of section 3770.072 of the Revised Code and is 31190
subject to the tax imposed by Chapter 5733. or 5747. of the 31191
Revised Code with respect to gain or income which the transferee 31192
and the investor will recognize in connection with lottery prize 31193
awards to be received as a result of the transfer. 31194

(G) "Transferee" means a party acquiring or proposing to 31195
acquire all or any part of a lottery prize award through a 31196
transfer. 31197

(H) "Transferor" means either a prize winner or a transferee 31198
in an earlier transfer whose interest is acquired by or is sought 31199
to be acquired by a transferee or a new transferee through a 31200
transfer. 31201

Sec. 3770.21. As used in sections 3770.21 to 3770.30 of the 31202
Revised Code: 31203

(A) "Associated equipment" means any hardware or software 31204
that is connected to an electronic gaming device or the central 31205
communications system for the purpose of performing communications 31206
to, or validation, auditing, or data and information retrieval by, 31207
the state lottery commission. "Associated equipment" does not 31208
include telecommunications facilities and equipment of a public 31209
utility, or electronic gaming devices. 31210

(B) "Central communications system" means the computer system 31211
operated and controlled by the state lottery commission, to which 31212
electronic gaming devices and their associated equipment 31213
communicate for security, auditing, data and information 31214
retrieval, and other purposes authorized under this chapter. 31215

(C) "Electronic gaming device" means a device approved by the 31216
state lottery commission for the purpose of conducting at tracks 31217
lotteries that provide immediate prize determinations for 31218
individual participants. 31219

(D) "Electronic lottery sales agent" means a person who is a 31220
permit holder and holds a current license issued under section 31221
3770.24 of the Revised Code to assist the state lottery commission 31222
in conducting lotteries through the use of electronic gaming 31223
devices at a track. 31224

(E) "Gross proceeds" means the amount of wagers by 31225
participants in lotteries minus payments to winning participants. 31226

(F) "Key gaming employee" means any individual employed by or 31227
under contract with an electronic lottery sales agent or an 31228
employee of a contractor that provides management or 31229
employee-related services to the agent, including gaming operator 31230
managers or assistant managers; facilities operator managers; 31231

electronic games managers; accounting department personnel; count 31232
room employees, cage department employees, including cashiers and 31233
main bank employees; vault department employees; surveillance and 31234
security department employees; floor managers; maintenance and 31235
security personnel, including custodians of electronic gaming 31236
devices and associated equipment and persons with access to cash 31237
and accounting records within such devices or equipment; and 31238
internal auditors of the electronic lottery sales agent. 31239

(G) "Permit holder" means a corporation, trust, partnership, 31240
limited partnership, association, person, or group of persons 31241
issued a permit under Chapter 3769. of the Revised Code to conduct 31242
a racing meeting, other than the holder of a permit issued for a 31243
racing meeting at a county fair or an independent fair. 31244

(H) "Track" means any place, track, or enclosure where a 31245
permit holder conducts live horse racing for profit at a race 31246
meeting. "Track" includes facilities on premises contiguous or 31247
adjacent to tracks. 31248

Sec. 3770.22. Unless prohibited pursuant to an election held 31249
pursuant to Substitute House Bill No. 95 of the 125th general 31250
assembly, the state lottery commission shall conduct lotteries 31251
that provide immediate prize determinations for individual 31252
participants through the use of electronic gaming devices. The 31253
commission shall conduct these lotteries only through electronic 31254
lottery sales agents that have conducted live horse-racing 31255
meetings during the past seven calendar years preceding their 31256
licensing as electronic lottery sales agents, and only at tracks. 31257
If, on the effective date of this section, more than one permit 31258
holder conducted horse-racing meetings at a track during the 31259
previous calendar year, the permit holders shall designate, by a 31260
written agreement, one permit holder, or a person or entity owning 31261
or owned by one or more permit holders, as the electronic lottery 31262

sales agent for that track. The agreement shall be filed with the 31263
commission prior to the issuance of an electronic lottery sales 31264
agent license and shall not be modified without the consent of the 31265
commission. 31266

Sec. 3770.23. An electronic gaming device shall be connected 31267
to the central communications system and may be linked with other 31268
electronic gaming devices for the purpose of lotteries providing 31269
prizes based in whole or part upon the outcomes of other 31270
electronic gaming devices electronically connected and located at 31271
the same or other tracks. The state lottery commission shall 31272
evaluate and approve both the hardware of an electronic gaming 31273
device and the software that is used to operate the device. The 31274
commission shall not approve an electronic gaming device unless 31275
the software that is used to operate it will provide to 31276
participants a projected average return of more than ninety per 31277
cent. 31278

Except as provided in the agreement required by section 31279
3770.26 of the Revised Code, the number, type, denomination, and 31280
location of electronic gaming devices at a track shall be within 31281
the judgment of the agent. During the first six months of 31282
conducting lotteries, not more than forty per cent of the 31283
electronic gaming devices operated by the commission at the track 31284
of an electronic lottery sales agent shall be manufactured by the 31285
same entity. 31286

Sec. 3770.24. (A) The director of the state lottery 31287
commission shall license a permit holder as an electronic lottery 31288
sales agent. Each applicant for a license as an electronic lottery 31289
sales agent shall do all of the following: 31290

(1) Pay to the commission a fee of one thousand dollars; 31291

(2) Present proof, in the form required by the director, that 31292

the applicant is a permit holder. 31293

(3) Prior to the approval of the application, obtain a letter of credit, or a surety or, if required by the director, a fidelity bond, in an amount to be determined by the director, but not to exceed one hundred thousand dollars. The bond may be with any company that complies with the bonding and surety laws of this state and requirements established by rules of the commission under section 3770.03 of the Revised Code. The director shall certify to the commission that the applicant has the required permit and letter of credit or bond. 31294
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(B) An electronic lottery sales agent license is effective for five years. An electronic lottery sales agent, on or before the date established by the director, shall renew the agent's license and the agreement required by section 3770.26 of the Revised Code, and provide evidence that the agent is a current permit holder and has renewed the letter of credit or bond required by this section. The director shall certify to the commission that the applicant for renewal has the required permit and letter of credit or bond. 31303
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(C) Any violation of this chapter, or of any rule adopted under it, is sufficient reason for the commission to refuse to issue a license, or for the commission to suspend or revoke any license issued, under this section. 31312
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With respect to the issuance, refusal, suspension, or revocation of a license under this section, the action of the commission is subject to Chapter 119. of the Revised Code. 31316
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Sec. 3770.25. The relationship between the state lottery commission and an electronic lottery sales agent is one of trust. An electronic lottery sales agent collects funds on behalf of the commission through the sale of rights to participate in lotteries for which the agent receives a commission. 31319
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An electronic lottery sales agent may not accept any thing of value from, or enter into an agreement with, a manufacturer, distributor, or vendor of electronic gaming devices and associated equipment before filing with the commission a copy of the agreement or a document memorializing the offer of the thing of value. 31324
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Sec. 3770.26. (A) The state lottery commission shall execute an agreement with each electronic lottery sales agent. Each agreement and renewed agreement shall provide all of the following: 31330
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(1) That thirty-seven and one-half per cent of the gross proceeds of the lotteries conducted pursuant to section 3770.22 of the Revised Code shall be paid as a commission to the agent for services and personnel provided under section 3770.28 of the Revised Code by the agent for the lotteries; for the provision, maintenance, and repair of the buildings and grounds at the track where the electronic gaming devices are located; and for injury to the existing business of the agent as the result of the conduct of lotteries by the commission at the track. 31334
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(2) That ten and one-half per cent of the gross proceeds of the lotteries conducted pursuant to section 3770.22 of the Revised Code shall be credited to the agent for reimbursement of costs and damages pursuant to divisions (A)(3) and (4) of this section, as a result of the operation by the commission of electronic gaming devices at the track. 31343
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(3) That from the amount credited to the agent under division (A)(2) of this section, an amount equal to ten per cent of the gross proceeds of lotteries conducted at a track during the previous month shall be added by the agent to the purse money for live horse racing conducted at that track. 31349
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(4) That from the amount credited to the agent under division (A)(2) of this section, an amount equal to one-fourth of one per cent of the gross proceeds of lotteries conducted at a track during the previous month shall be paid by the agent to the county in which the track is located, and one-fourth of one per cent of such gross proceeds shall be paid to the municipal corporation in which the track is located or, if the track is not located within a municipal corporation, to the township in which the track is located. If the track is located in more than one county, and municipal corporation or township, the amounts payable pursuant to this division shall be divided equally among the counties, and municipal corporations or townships. 31354
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(5) That the agent shall give to the commission a written schedule that lists the installed cost of all fixtures and equipment supplied by the agent to assist the commission in conducting lotteries under section 3770.22 of the Revised Code, and, if the commission discontinues conducting the lotteries for any reason other than breach of the agreement by the agent or suspension or revocation of the agent's license issued under section 3770.24 of the Revised Code or permit issued under Chapter 3769. of the Revised Code, that the commission shall reimburse the agent for the unamortized cost of the fixtures and equipment listed in the schedule. 31366
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(6) That the agent shall conduct live horse-racing meetings and simulcast racing programs each calendar year on not less than the number of days required by Chapter 3769. of the Revised Code pursuant to the permit issued by the state racing commission for that track. 31377
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(7) That not less than one thousand eight hundred nor more than two thousand five hundred electronic gaming devices shall be placed at a track without a determination by the director or commission that such number of devices is consistent with the 31382
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purposes of this chapter and has been requested by the agent. 31386

(8) That lotteries conducted under section 3770.22 of the 31387
Revised Code may not be conducted between the hours of five a.m. 31388
and eight a.m. on any day. 31389

(B) The term of the agreement shall not exceed five years and 31390
shall not be terminated by the parties during its term, except for 31391
breach of a provision of the agreement, or suspension or 31392
revocation of an electronic lottery sales agent's license issued 31393
under this section or of a permit issued under Chapter 3769. of 31394
the Revised Code. If the commission intends to terminate or not 31395
renew an agreement, it shall provide the agent with an opportunity 31396
for an adjudication under Chapter 119. of the Revised Code. 31397

Sec. 3770.27. In conducting lotteries under section 3770.22 31398
of the Revised Code, the state lottery commission shall do all of 31399
the following: 31400

(A) Approve, qualify, certify, procure, install, maintain, 31401
repair, replace, and operate all electronic gaming devices, 31402
associated equipment, and intellectual property necessary for the 31403
conduct of the lotteries; 31404

(B) Procure, install, establish, maintain, repair, replace, 31405
and operate the central communications system that provides 31406
security, auditing, and data and information retrieval as 31407
determined necessary by the commission and that does not limit 31408
participation to only one electronic gaming device manufacturer, 31409
distributor, supplier, or provider. The central communications 31410
system shall be on-line and in continuous communication with 31411
computers, electronic gaming devices, and associated equipment 31412
located at the tracks of electronic lottery sales agents. 31413

(C) Select, qualify, certify, retain, pay, and terminate all 31414
contractors, suppliers, service companies, and vendors of the 31415

commission necessary for the conduct of lotteries under section 31416
3770.22 of the Revised Code, including those persons that provide 31417
electronic gaming devices, associated equipment, and the central 31418
communications system; 31419

(D) Establish standards for the daily payment, by an 31420
electronic lottery sales agent through electronic transfer or 31421
other system mandated by the director, of the gross proceeds of 31422
lotteries conducted under this section, less the commission paid, 31423
and the reimbursement credited, to the agent under divisions 31424
(A)(1) and (2) of section 3770.26 of the Revised Code; 31425

(E) Review advertising and promotion of electronic lottery 31426
gaming, provided that the commission shall pay fifty per cent of 31427
the cost of producing, distributing, and operation of any approved 31428
advertising and promotion and the remainder shall be paid by the 31429
electronic lottery sales agent which initiates the advertising or 31430
promotion. 31431

Sec. 3770.28. In assisting the state lottery commission with 31432
the conduct of lotteries under section 3770.22 of the Revised 31433
Code, an electronic lottery sales agent shall do all of the 31434
following: 31435

(A) Select the number, type, denomination, and location of, 31436
and refill the electronic gaming devices that have been placed by 31437
the commission at the track, and promptly report to the electronic 31438
gaming device manufacturer and the commission any malfunctions of 31439
the devices, or failures of the manufacturers or service 31440
technicians to promptly service and repair the devices or 31441
associated equipment; 31442

(B) Provide, maintain, and repair necessary capital 31443
improvements for the facilities at the track at which electronic 31444
gaming devices are located; 31445

(C) Hire and compensate adequate personnel to ensure compliance with the provisions of this chapter relating to the operation of electronic gaming devices, including sufficient security personnel to protect and secure the devices and associated equipment, and the track at which the devices are located; 31446
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(D) Hire, compensate, and be responsible for the performance of the duties of, key gaming employees, ensuring that those employees have been and remain during the course of their employment duly licensed by the commission; 31452
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(E) By electronic transfer or other system mandated by the director, transfer or deliver daily to the commission the gross proceeds of lotteries conducted under section 3770.22 of the Revised Code, less the commission paid, and the reimbursement credited, to the agent under divisions (A)(1) and (2) of section 3770.26 of the Revised Code; 31456
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(F) Deliver payment to winning participants of prizes awarded by lotteries conducted by the commission through electronic gaming devices at tracks. 31462
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Sec. 3770.29. (A) The conduct of lotteries and the operation of electronic gaming devices at tracks under section 3770.22 of the Revised Code shall not be deemed to change the character of the use of the tracks under any county, municipal, or township land use regulation, ordinance, or agreement. 31465
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(B) No license or excise tax or fee shall be assessed upon or collected from an electronic lottery sales agent by any county, township, municipal corporation, school district, or other political subdivision of the state that has the authority to assess or collect a tax or fee by reason of the conduct of lotteries at tracks under section 3770.22 of the Revised Code. 31470
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Sec. 3770.30. Sections 3770.21 to 3770.30 of the Revised Code 31476
do not modify the authority of the state racing commission to 31477
regulate horse racing in accordance with Chapter 3769. of the 31478
Revised Code or, except as provided in sections 3770.21 to 3770.30 31479
of the Revised Code, the rights and responsibilities of permit 31480
holders under that chapter. 31481

Sec. 3770.99. (A) Whoever is prohibited from claiming a 31482
lottery prize award under division ~~(A)(5)~~(E) of section 3770.07 of 31483
the Revised Code and attempts to claim or is paid a lottery prize 31484
award is guilty of a minor misdemeanor, and shall provide 31485
restitution to the state lottery commission of any moneys 31486
erroneously paid as a lottery prize award to that person. 31487

(B) Whoever violates division (C) of section 3770.071 or 31488
section 3770.08 of the Revised Code is guilty of a misdemeanor of 31489
the third degree. 31490

Sec. 3773.33. (A) There is hereby created the Ohio athletic 31491
commission. The commission shall consist of five voting members 31492
appointed by the governor with the advice and consent of the 31493
senate, not more than three of whom shall be of the same political 31494
party, and two nonvoting members, one of whom shall be a member of 31495
the senate appointed by and to serve at the pleasure of the 31496
president of the senate and one of whom shall be a member of the 31497
house of representatives appointed by and to serve at the pleasure 31498
of the speaker of the house of representatives. To be eligible for 31499
appointment as a voting member, a person shall be a qualified 31500
elector and a resident of the state for not less than five years 31501
immediately preceding the person's appointment. Two voting members 31502
shall be knowledgeable in boxing, at least one voting member shall 31503
be knowledgeable and experienced in high school athletics, one 31504
voting member shall be knowledgeable and experienced in 31505

professional athletics, and at least one voting member shall be 31506
knowledgeable and experienced in collegiate athletics. One 31507
commission member shall hold the degree of doctor of medicine or 31508
doctor of osteopathy. 31509

(B) No person shall be appointed to the commission or be an 31510
employee of the commission who is licensed, registered, or 31511
regulated by the commission. No member shall have any legal or 31512
beneficial interest, direct or indirect, pecuniary or otherwise, 31513
in any person who is licensed, registered, or regulated by the 31514
commission or who participates in prize fights or public boxing or 31515
wrestling matches or exhibitions. No member shall participate in 31516
any fight, match, or exhibition other than in the member's 31517
official capacity as a member of the commission, or as an 31518
inspector as authorized in section 3773.52 of the Revised Code. 31519

(C) The governor shall appoint the voting members to the 31520
commission. Of the initial appointments, two shall be for terms 31521
ending one year after September 3, 1996, two shall be for terms 31522
ending two years after September 3, 1996, and one shall be for a 31523
term ending three years after September 3, 1996. Thereafter, terms 31524
of office shall be for three years, each term ending the same day 31525
of the same month of the year as did the term which it succeeds. 31526
Each member shall hold office from the date of the member's 31527
appointment until the end of the term for which the member was 31528
appointed. Any member appointed to fill a vacancy occurring prior 31529
to the expiration of the term for which the member's predecessor 31530
was appointed shall hold office for the remainder of the term. Any 31531
member shall continue in office subsequent to the expiration date 31532
of the member's term until the member's successor takes office, or 31533
until a period of sixty days has elapsed, whichever occurs first. 31534

The governor shall name one voting member as chairperson of 31535
the commission at the time of making the appointment of any member 31536
for a full term. Three voting members shall constitute a quorum, 31537

and the affirmative vote of three voting members shall be 31538
necessary for any action taken by the commission. No vacancy on 31539
the commission impairs the authority of the remaining members to 31540
exercise all powers of the commission. 31541

Voting members, when engaged in commission duties, shall 31542
receive a per diem compensation determined in accordance with 31543
division (J) of section 124.15 of the Revised Code, and all 31544
members shall receive their actual and necessary expenses incurred 31545
in the performance of their official duties. 31546

Each voting member, before entering upon the discharge of the 31547
member's duties, shall file a surety bond payable to the treasurer 31548
of state in the sum of ten thousand dollars. Each surety bond 31549
shall be conditioned upon the faithful performance of the duties 31550
of the office, executed by a surety company authorized to transact 31551
business in this state, and filed in the office of the secretary 31552
of state. 31553

The governor may remove any voting member for malfeasance, 31554
misfeasance, or nonfeasance in office after giving the member a 31555
copy of the charges against the member and affording the member an 31556
opportunity for a public hearing, at which the member may be 31557
represented by counsel, upon not less than ten days' notice. If 31558
the member is removed, the governor shall file a complete 31559
statement of all charges made against the member and the 31560
governor's finding ~~thereon~~ on the charges in the office of the 31561
secretary of state, together with a complete report of the 31562
proceedings. The governor's decision shall be final. 31563

~~(D) The commission shall maintain an office in Youngstown and 31564
keep all of its permanent records there. 31565~~

Sec. 3773.43. The Ohio athletic commission shall charge the 31566
following fees: 31567

(A) For an application for or renewal of a promoter's license 31568
for public boxing matches or exhibitions, ~~fifty~~ one hundred 31569
dollars. 31570

(B) For an application for or renewal of a license to 31571
participate in a public boxing match or exhibition as a 31572
contestant, or as a referee, judge, matchmaker, manager, 31573
timekeeper, trainer, or second of a contestant, ~~ten~~ twenty 31574
dollars. 31575

(C) For a permit to conduct a public boxing match or 31576
exhibition, ~~ten~~ fifty dollars. 31577

(D) For an application for or renewal of a promoter's license 31578
for professional wrestling matches or exhibitions, ~~one~~ two hundred 31579
dollars. 31580

(E) For a permit to conduct a professional wrestling match or 31581
exhibition, ~~fifty~~ one hundred dollars. 31582

The commission, subject to the approval of the controlling 31583
board, may establish fees in excess of the amounts provided in 31584
this section, provided that such fees do not exceed the amounts 31585
permitted by this section by more than ~~twenty-five~~ fifty per cent. 31586

The fees prescribed by this section shall be paid to the 31587
treasurer of state, who shall deposit the fees in the occupational 31588
licensing and regulatory fund. 31589

Sec. 3781.19. There is hereby established in the department 31590
of commerce a board of building appeals consisting of five members 31591
who shall be appointed by the governor with the advice and consent 31592
of the senate. Terms of office shall be for four years, commencing 31593
on the fourteenth day of October and ending on the thirteenth day 31594
of October. Each member shall hold office from the date of ~~his~~ 31595
appointment until the end of the term for which ~~he~~ the member was 31596
appointed. Any member appointed to fill a vacancy occurring prior 31597

to the expiration of the term for which ~~his~~ the member's 31598
predecessor was appointed shall hold office for the remainder of 31599
such term. Any member shall continue in office subsequent to the 31600
expiration date of ~~his~~ the member's term until ~~his~~ a successor 31601
takes office, or until a period of sixty days has elapsed, 31602
whichever occurs first. One member shall be an attorney-at-law, 31603
admitted to the bar of this state and of the remaining members, 31604
one shall be a registered architect and one shall be a 31605
professional engineer, each of whom shall be duly licensed to 31606
practice their respective professions in this state, one shall be 31607
a fire prevention officer qualified under section 3737.66 of the 31608
Revised Code, and one shall be a person with recognized ability in 31609
the plumbing or pipefitting profession. No member of the board of 31610
building standards shall be a member of the board of building 31611
appeals. Each member shall be paid an amount fixed pursuant to 31612
Chapter 124. of the Revised Code per diem. The department shall 31613
provide and assign to the board such employees as are required by 31614
the board to perform its functions. The board may adopt its own 31615
rules of procedure not inconsistent with sections 3781.06 to 31616
3781.18 and 3791.04 of the Revised Code, and may change them in 31617
its discretion. The board may establish reasonable fees, based on 31618
actual costs for administration of filing and processing, not to 31619
exceed ~~one~~ two hundred dollars, for the costs of filing and 31620
processing appeals. A full and complete record of all proceedings 31621
of the board shall be kept and be open to public inspection. 31622

In the enforcement by any department of the state or any 31623
political subdivision of this chapter and Chapter 3791., and 31624
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.44, 4104.45, 31625
4105.011, and 4105.11 of the Revised Code and any rule made 31626
thereunder, such department is the agency referred to in sections 31627
119.07, 119.08, and 119.10 of the Revised Code. 31628

The appropriate municipal or county board of appeals, where 31629

one exists, certified pursuant to section 3781.20 of the Revised Code shall conduct the adjudication hearing referred to in sections 119.09 to 119.13 and required by section 3781.031 of the Revised Code. If there is no certified municipal or county board of appeals, the board of building appeals shall conduct the adjudication hearing. If the adjudication hearing concerns section 3781.111 of the Revised Code or any rule made thereunder, reasonable notice of the time, date, place, and subject of the hearing shall be given to any local corporation, association, or other organization composed of or representing handicapped persons, as defined in section 3781.111 of the Revised Code, or if there is no local organization, then to any statewide corporation, association, or other organization composed of or representing handicapped persons.

In addition to the provisions of Chapter 119. of the Revised Code, the municipal, county, or state board of building appeals, as the agency conducting the adjudication hearing, may reverse or modify the order of the enforcing agency if it finds that the order is contrary to this chapter and Chapters 3791. and 4104., and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised Code and any rule made thereunder or to a fair interpretation or application of such laws or any rule made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.

The state board of building appeals or a certified municipal or county board of appeals shall render its decision within thirty days after the date of the adjudication hearing. Following the adjudication hearing, any municipal or county officer, official municipal or county board, or person who was a party to the hearing before the municipal or county board of appeals may apply

to the state board of appeals for a de novo hearing before the 31662
state board, or may appeal directly to the court of common pleas 31663
pursuant to section 3781.031 of the Revised Code. 31664

In addition, any local corporation, association, or other 31665
organization composed of or representing handicapped persons as 31666
defined in section 3781.111 of the Revised Code, or, if no local 31667
corporation, association, or organization exists, then any 31668
statewide corporation, association, or other organization composed 31669
of or representing handicapped persons may apply for the de novo 31670
hearing or appeal to the court of common pleas from any decision 31671
of a certified municipal or county board of appeals interpreting, 31672
applying, or granting a variance from section 3781.111 of the 31673
Revised Code and any rule made thereunder. Application for a de 31674
novo hearing before the state board shall be made no later than 31675
thirty days after the municipal or county board renders its 31676
decision. 31677

The state board of building appeals or the appropriate 31678
certified local board of building appeals shall grant variances 31679
and exemptions from the requirements of section 3781.108 of the 31680
Revised Code in accordance with rules adopted by the board of 31681
building standards pursuant to division (J) of section 3781.10 of 31682
the Revised Code. 31683

The state board of building appeals or the appropriate 31684
certified local board of building appeals shall, in granting a 31685
variance or exemption from section 3781.108 of the Revised Code, 31686
in addition to any other considerations the state or the 31687
appropriate local board determines appropriate, consider the 31688
architectural and historical significance of the building. 31689

Sec. 3901.86. (A) When the laws of any other state, district, 31690
territory, or nation impose any taxes, fines, penalties, license 31691
fees, deposits of money, securities, or other obligations or 31692

prohibitions on insurance companies of this state doing business 31693
in that state, district, territory, or nation, or upon their 31694
agents therein, the same obligations and prohibitions shall be 31695
imposed upon insurance companies of the other state, district, or 31696
nation doing business in this state and upon their agents. 31697

When the laws of any other state, district, territory, or 31698
nation impose a requirement for countersignature and payment of a 31699
fee or commission upon agents of this state for placing any 31700
coverage in that state, district, territory, or nation, then the 31701
same requirements of countersignature and fee or commission shall 31702
be imposed upon agents of that state, district, territory, or 31703
nation for placing any coverage in this state. 31704

(B) Beginning on July 1, 1993, twenty per cent of the amount 31705
that is collected under division (A) of this section from foreign 31706
insurance companies that sell fire insurance to residents of this 31707
state shall be paid into the state fire marshal's fund created 31708
under section 3737.71 of the Revised Code. The director of 31709
~~commerce~~ public safety, with the approval of the director of 31710
budget and management, may increase the percentage described in 31711
this division so that it will yield an amount that the director of 31712
~~commerce~~ public safety determines necessary to assist in the 31713
maintenance and administration of the office of the fire marshal 31714
and in defraying the costs of operating the Ohio fire academy 31715
established by section 3737.33 of the Revised Code. 31716

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 31717
section 4104.99 of the Revised Code: 31718

(A) "Board of building standards" or "board" means the board 31719
established by section 3781.07 of the Revised Code. 31720

(B) "Superintendent" means the superintendent of the division 31721
of industrial compliance created by section 121.04 of the Revised 31722
Code. 31723

(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 superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole 31754
from a process other than the boiler itself. 31755

(3) The boiler is part of a continuous processing unit, such 31756
as used in chemical manufacture or petroleum refining, other than 31757
a steam-generated process unit. 31758

(I) "Stationary steam engine" means an engine or turbine in 31759
which the mechanical force arising from the elasticity and 31760
expansion action of steam or from its property of rapid 31761
condensation or from a combination of the two is made available as 31762
a motive power. 31763

Sec. 4104.02. The board of building standards shall: 31764

(A) Formulate rules for the construction, installation, 31765
~~inspection~~, repair, conservation of energy, and operation of 31766
boilers and the construction, ~~inspection~~, and repair of ~~unfired~~ 31767
pressure vessels and for ascertaining the safe working pressures 31768
to be carried on such boilers and ~~unfired~~ pressure vessels and the 31769
qualification of inspectors of boilers and ~~unfired~~ pressure 31770
vessels; 31771

(B) Prescribe tests, if it is considered necessary, to 31772
ascertain the qualities of materials used in the construction of 31773
boilers and ~~unfired~~ pressure vessels; 31774

(C) Adopt rules regulating the construction and sizes of 31775
safety valves for boilers and ~~unfired~~ pressure vessels of 31776
different sizes and pressures, for the construction, use, and 31777
location of fusible plugs, appliances for indicating the pressure 31778
of steam and level of water in the boiler or ~~unfired~~ pressure 31779
vessels, and such other appliances as the board considers 31780
necessary to safety in operating boilers; 31781

(D) Establish reasonable fees for the performance of reviews, 31782
surveys, or audits of manufacturer's facilities by the division of 31783

industrial compliance for certification by the American society of 31784
mechanical engineers and the national board of boiler and pressure 31785
vessel inspectors; 31786

(E) The definitions and rules adopted by the board for the 31787
construction, installation, ~~inspection~~, repair, conservation of 31788
energy, and operation of boilers and the construction, ~~inspection~~, 31789
and repair of ~~unfired~~ pressure vessels and for ascertaining the 31790
safe working pressures to be used on such boilers and ~~unfired~~ 31791
pressure vessels shall be based upon and follow generally accepted 31792
engineering standards, formulae, and practices established and 31793
pertaining to boilers and ~~unfired~~ pressure vessel construction, 31794
operation, and safety, and the board may, for this purpose, adopt 31795
existing published standards as well as amendments thereto 31796
subsequently published by the same authority. 31797

When a person desires to manufacture a special type of boiler 31798
or ~~unfired~~ pressure vessel, the design of which is not covered by 31799
the rules of the board, the person shall submit drawings and 31800
specifications of such boiler or ~~unfired~~ pressure vessel to the 31801
board for investigation, after which the board may permit its 31802
installation. 31803

The provisions of sections 119.03 and 119.11 of the Revised 31804
Code in particular, and the applicable provisions of Chapter 119. 31805
of the Revised Code in general, shall govern the proceedings of 31806
the board of building standards in adopting, amending, or 31807
rescinding rules pursuant to this section. 31808

Sec. 4104.04. (A) Sections 4104.01 to 4104.20 and section 31809
4104.99 of the Revised Code do not apply to the following boilers 31810
and ~~unfired~~ pressure vessels: 31811

(1) Boilers, ~~unfired~~ pressure vessels, and stationary steam 31812
engines under federal control or subject to inspection under 31813
federal laws; 31814

- (2) Air tanks located on vehicles operating under the rules 31815
of other state authorities and used for carrying passengers, or 31816
freight; 31817
- (3) Air tanks installed on the right of way of railroads and 31818
used directly in the operation of trains; 31819
- (4) ~~Unfired pressure~~ Pressure vessels ~~which that~~ are under 31820
the regulation and control of the state fire marshal under Chapter 31821
3737. of the Revised Code. 31822
- (B) The following boilers and ~~unfired~~ pressure vessels are 31823
exempt from the requirements of sections 4104.10, 4104.101, 31824
4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be 31825
equipped with such appliances, to insure safety of operation, as 31826
are prescribed by the board: 31827
- (1) Portable boilers or ~~unfired~~ pressure vessels when located 31828
on farms and used solely for agricultural purposes; 31829
- (2) Steam or vapor boilers carrying a pressure of not more 31830
than fifteen psig, which are located in private residences or in 31831
apartment houses of less than six family units; 31832
- (3) Hot water boilers operated at pressures not exceeding one 31833
hundred sixty psig, or temperatures not exceeding two hundred 31834
fifty degrees fahrenheit, which are located in private residences 31835
or in apartment houses of less than six family units; 31836
- (4) ~~Unfired pressure~~ Pressure vessels containing only water 31837
under pressure for domestic supply purposes, including those 31838
containing air, the compression of which serves only as a cushion 31839
or airlift pumping system, when located in private residences or 31840
in apartment houses of less than six family units; 31841
- (5) Portable boilers used in pumping, heating, steaming, and 31842
drilling, in the open field, for water, gas, and oil; 31843
- (6) Portable boilers used in the construction of and repair 31844

to public roads, railroads, and bridges; 31845

(7) Historical steam boilers of riveted construction, 31846
preserved, restored, or maintained for hobby or demonstration use. 31847

Sec. 4104.06. (A) The inspection of boilers and their 31848
appurtenances and ~~unfired~~ pressure vessels shall be made by the 31849
inspectors mentioned in sections 4104.07 to 4104.20 of the Revised 31850
Code. The superintendent of industrial compliance shall administer 31851
and enforce such sections and rules adopted by the board of 31852
building standards pursuant to section 4104.02 of the Revised 31853
Code. 31854

(B) The superintendent shall adopt, amend, and repeal rules 31855
exclusively for the issuance, renewal, suspension, and revocation 31856
of certificates of competency and certificates of operation, for 31857
conducting hearings in accordance with Chapter 119. of the Revised 31858
Code related to these actions, and for the inspection of boilers 31859
and their appurtenances, and ~~unfired~~ pressure vessels. 31860

(C) Notwithstanding division (B) of this section, the 31861
superintendent shall not adopt rules relating to construction, 31862
maintenance, or repair of boilers and their appurtenances, or 31863
repair of ~~unfired~~ pressure vessels. 31864

(D) The superintendent and each general inspector may enter 31865
any premises and any building or room at all reasonable hours to 31866
perform an examination or inspection. 31867

Sec. 4104.07. (A) An application for examination as an 31868
inspector of boilers and ~~unfired~~ pressure vessels shall be in 31869
writing, accompanied by a fee of fifty dollars, upon a blank to be 31870
furnished by the superintendent of industrial compliance. Any 31871
moneys collected under this section shall be paid into the state 31872
treasury to the credit of the industrial compliance operating fund 31873
created in section 121.084 of the Revised Code. 31874

(B) The superintendent shall determine if an applicant meets 31875
all the requirements for examination in accordance with rules 31876
adopted by the board of building standards under section 4104.02 31877
of the Revised Code. An application shall be rejected which 31878
contains any willful falsification, or untruthful statements. 31879

(C) An applicant shall be examined by the superintendent, by 31880
a written examination, prescribed by the board, dealing with the 31881
construction, installation, operation, maintenance, and repair of 31882
boilers and ~~unfired~~ pressure vessels and their appurtenances, and 31883
the applicant shall be accepted or rejected on the merits of the 31884
applicant's application and examination. 31885

(D) Upon a favorable report by the superintendent of the 31886
result of an examination, the superintendent shall immediately 31887
issue to the successful applicant a certificate of competency to 31888
that effect. 31889

Sec. 4104.08. (A) The director of commerce may appoint from 31890
the holders of certificates of competency provided for in section 31891
4104.07 of the Revised Code, general inspectors of boilers and 31892
~~unfired~~ pressure vessels. 31893

(B) Any company authorized to insure boilers and ~~unfired~~ 31894
pressure vessels against explosion in this state may designate 31895
from holders of certificates of competency issued by the 31896
superintendent of industrial compliance, or holders of 31897
certificates of competency or commissions issued by other states 31898
or nations whose examinations for certificates or commissions have 31899
been approved by the board of building standards, persons to 31900
inspect and stamp boilers and ~~unfired~~ pressure vessels covered by 31901
the company's policies, and the superintendent shall issue to such 31902
persons commissions authorizing them to act as special inspectors. 31903
Special inspectors shall be compensated by the company designating 31904
them. 31905

(C) The director of commerce shall establish an annual fee to 31906
be charged by the superintendent for each certificate of 31907
competency or commission the superintendent issues. 31908

(D) The superintendent shall issue to each general or special 31909
inspector a commission to the effect that the holder thereof is 31910
authorized to inspect boilers and ~~unfired~~ pressure vessels in this 31911
state. 31912

(E) No person shall be authorized to act as a general 31913
inspector or a special inspector who is directly or indirectly 31914
interested in the manufacture or sale of boilers or ~~unfired~~ 31915
pressure vessels. 31916

Sec. 4104.15. (A) All certificates of inspection for boilers, 31917
issued prior to October 15, 1965, are valid and effective for the 31918
period set forth in such certificates unless sooner withdrawn by 31919
the superintendent of industrial compliance. The owner or user of 31920
any such boiler shall obtain an appropriate certificate of 31921
operation for such boiler, and shall not operate such boiler, or 31922
permit it to be operated unless a certificate of operation has 31923
been obtained in accordance with section 4104.17 of the Revised 31924
Code. 31925

(B) If, upon making the internal and external inspection 31926
required under sections 4104.11, 4104.12, and 4104.13 of the 31927
Revised Code, the inspector finds the boiler to be in safe working 31928
order, with the fittings necessary to safety, and properly set up, 31929
upon the inspector's report to the superintendent, the 31930
superintendent shall issue to the owner or user thereof, or renew, 31931
upon application and upon compliance with sections 4104.17 and 31932
4104.18 of the Revised Code, a certificate of operation which 31933
shall state the maximum pressure at which the boiler may be 31934
operated, as ascertained by the rules of the board of building 31935
standards. Such certificates shall also state the name of the 31936

owner or user, the location, size, and number of each boiler, and 31937
the date of issuance, and shall be so placed as to be easily read 31938
in the engine room or boiler room of the plant where the boiler is 31939
located, except that the certificate of operation for a portable 31940
boiler shall be kept on the premises and shall be accessible at 31941
all times. 31942

(C) If an inspector at any inspection finds that the boiler 31943
or ~~unfired~~ pressure vessel is not in safe working condition, or is 31944
not provided with the fittings necessary to safety, or if the 31945
fittings are improperly arranged, the inspector shall immediately 31946
notify the owner or user and person in charge of the boiler and 31947
shall report the same to the superintendent who may revoke, 31948
suspend, or deny the certificate of operation and not renew the 31949
same until the boiler or ~~unfired~~ pressure vessel and its fittings 31950
are put in condition to insure safety of operation, and the owner 31951
or user shall not operate the boiler or ~~unfired~~ pressure vessel, 31952
or permit it to be operated until such certificate has been 31953
granted or restored. 31954

(D) If the superintendent or a general boiler inspector finds 31955
that ~~an unfired~~ a pressure vessel or boiler or a part thereof 31956
poses an explosion hazard that reasonably can be regarded as 31957
posing an imminent danger of death or serious physical harm to 31958
persons, the superintendent or the general boiler inspector shall 31959
seal the ~~unfired~~ pressure vessel or boiler and order, in writing, 31960
the operator or owner of the ~~unfired~~ pressure vessel or boiler to 31961
immediately cease the ~~unfired~~ pressure vessel's or boiler's 31962
operation. The order shall be effective until the nonconformities 31963
are eliminated, corrected, or otherwise remedied, or for a period 31964
of seventy-two hours from the time of issuance, whichever occurs 31965
first. During the seventy-two-hour period, the superintendent may 31966
request that the prosecuting attorney or city attorney of Franklin 31967
county or of the county in which the ~~unfired~~ pressure vessel or 31968

boiler is located obtain an injunction restraining the operator or 31969
owner of the ~~unfired~~ pressure vessel or boiler from continuing its 31970
operation after the seventy-two-hour period expires until the 31971
nonconformities are eliminated, corrected, or otherwise remedied. 31972

(E) Each boiler which has been inspected shall be assigned a 31973
number by the superintendent, which number shall be stamped on a 31974
nonferrous metal tag affixed to the boiler or its fittings by seal 31975
or otherwise. No person except an inspector shall deface or remove 31976
any such number or tag. 31977

(F) If the owner or user of any ~~unfired~~ pressure vessel or 31978
boiler disagrees with the inspector as to the necessity for 31979
shutting down ~~an unfired~~ a pressure vessel or boiler or for making 31980
repairs or alterations in it, or taking any other measures for 31981
safety that are requested by an inspector, the owner or user may 31982
appeal from the decision of the inspector to the superintendent, 31983
who may, after such other inspection by a general inspector or 31984
special inspector as the superintendent deems necessary, decide 31985
the issue. 31986

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 31987
nor an inspection or report by any inspector, shall relieve the 31988
owner or user of ~~an unfired~~ a pressure vessel or boiler of the 31989
duty of using due care in the inspection, operation, and repair of 31990
the ~~unfired~~ pressure vessel or boiler or of any liability for 31991
damages for failure to inspect, repair, or operate the ~~unfired~~ 31992
pressure vessel or boiler safely. 31993

Sec. 4104.18. (A) The owner or user of a boiler required 31994
under section 4104.12 of the Revised Code to be inspected upon 31995
installation, and the owner or user of a boiler for which a 31996
certificate of inspection has been issued which is replaced with 31997
an appropriate certificate of operation, shall pay to the 31998
superintendent of industrial compliance a fee in the amount of 31999

~~thirty~~ forty-five dollars for boilers subject to annual 32000
inspections under section 4104.11 of the Revised Code, ~~sixty~~ 32001
ninety dollars for boilers subject to biennial inspection under 32002
section 4104.13 of the Revised Code, ~~ninety one hundred~~ 32003
thirty-five dollars for boilers subject to triennial inspection 32004
under section 4104.11 of the Revised Code, or ~~one~~ two hundred 32005
~~fifty~~ twenty-five dollars for boilers subject to quinquennial 32006
inspection under section 4104.13 of the Revised Code. 32007

A renewal fee in the amount of ~~thirty~~ forty-five dollars 32008
shall be paid to the treasurer of state before the renewal of any 32009
certificate of operation. 32010

(B) The fee for complete inspection during construction by a 32011
general inspector on boilers and ~~unfired~~ pressure vessels 32012
manufactured within the state shall be thirty-five dollars per 32013
hour. Boiler and ~~unfired~~ pressure vessel manufacturers other than 32014
those located in the state may secure inspection by a general 32015
inspector on work during construction, upon application to the 32016
superintendent, and upon payment of a fee of thirty-five dollars 32017
per hour, plus the necessary traveling and hotel expenses incurred 32018
by the inspector. 32019

(C) The application fee for applicants for steam engineer, 32020
high pressure boiler operator, or low pressure boiler operator 32021
licenses is fifty dollars. The fee for each original or renewal 32022
steam engineer, high pressure boiler operator, or low pressure 32023
boiler operator license is thirty-five dollars. 32024

(D) The director of commerce, subject to the approval of the 32025
controlling board, may establish fees in excess of the fees 32026
provided in divisions (A), (B), and (C) of this section, ~~provided~~ 32027
~~that such fees do not exceed the amounts established in this~~ 32028
~~section by more than fifty per cent.~~ Any moneys collected under 32029
this section shall be paid into the state treasury to the credit 32030
of the industrial compliance operating fund created in section 32031

121.084 of the Revised Code. 32032

(E) Any person who fails to pay an invoiced renewal fee or an 32033
invoiced inspection fee required for any inspection conducted by 32034
the division of industrial compliance pursuant to this chapter 32035
within forty-five days of the invoice date shall pay a late 32036
payment fee equal to twenty-five per cent of the invoiced fee. 32037

(F) In addition to the fees assessed in divisions (A) and (B) 32038
of this section, the board of building standards shall assess the 32039
owner or user a fee of three dollars and twenty-five cents for 32040
each certificate of operation or renewal thereof issued under 32041
division (A) of this section and for each inspection conducted 32042
under division (B) of this section. The board shall adopt rules, 32043
in accordance with Chapter 119. of the Revised Code, specifying 32044
the manner by which the superintendent shall collect and remit to 32045
the board the fees assessed under this division and requiring that 32046
remittance of the fees be made at least quarterly. 32047

Sec. 4104.19. (A) Any person seeking a license to operate as 32048
a steam engineer, high pressure boiler operator, or low pressure 32049
boiler operator shall file a written application with the 32050
superintendent of industrial compliance on a form prescribed by 32051
the superintendent with the appropriate application fee as set 32052
forth in section 4104.18 of the Revised Code. The application 32053
shall contain information satisfactory to the superintendent to 32054
demonstrate that the applicant meets the requirements of division 32055
(B) of this section. The application shall be filed with the 32056
superintendent not more than sixty days and not less than thirty 32057
days before the license examination is offered. 32058

(B) To qualify to take the examination required to obtain a 32059
steam engineer, high pressure boiler operator, or low pressure 32060
boiler operator license, a person shall meet both of the following 32061
requirements: 32062

- (1) Be at least eighteen years of age; 32063
- (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. 32064
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- (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. 32069
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- (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. 32073
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- (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: 32077
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- (1) Prepare, administer, score, and maintain the confidentiality of the examination; 32081
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- (2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section; 32083
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- (3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent; 32085
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- (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. 32087
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- (F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying 32090
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to the superintendent not more than ninety days before the 32093
expiration of the license, and submitting with the application the 32094
renewal fee established in section 4104.18 of the Revised Code. 32095
Upon receipt of the renewal information and fee, the 32096
superintendent shall issue the licensee a certificate of renewal. 32097

(G) The superintendent, in accordance with Chapter 119. of 32098
the Revised Code, may suspend or revoke any license, or may refuse 32099
to issue a license under this chapter upon finding that a licensee 32100
or an applicant for a license has violated or is violating the 32101
requirements of this chapter. 32102

Sec. 4104.20. No owner or operator of any boiler shall 32103
operate the same in violation of sections 4104.11 to 4104.16, 32104
inclusive, and 4104.18 of the Revised Code, or of any rule or 32105
regulation adopted by the board of building standards, pursuant to 32106
section 4104.02 of the Revised Code, or without having a boiler 32107
inspected and a certificate of operation issued therefor as 32108
provided in such sections or hinder or prevent a general or 32109
special inspector of boilers from entering any premises in or on 32110
which a boiler is situated for the purpose of inspection. No owner 32111
or operator of any ~~unfired~~ pressure vessel shall operate the same 32112
in violation of section 4104.10 of the Revised Code, or of any 32113
rule or regulation adopted by the board of building standards, 32114
pursuant to section 4104.02 of the Revised Code. 32115

Sec. 4104.41. ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 32116
4104.48 of the Revised Code: 32117

~~(1)~~(A) "Liquefied petroleum gas" means any material which is 32118
composed predominantly of any of the following hydrocarbons, or 32119
mixtures of the same: propane, propylene, normal butane, or 32120
isobutane or butylenes. 32121

~~(2)~~(B) "Other gaseous piping systems" excludes natural gas 32122

32123 piping gas systems.

~~(B) The director of commerce shall appoint general inspectors
of power, refrigerating, hydraulic, heating, and liquefied
petroleum gas piping systems. Such inspectors shall be appointed
from holders of certificates of competency provided for in section
4104.42 of the Revised Code.~~

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~~Salaries shall be appropriated in the same manner as the
salaries of other employees of state departments, and expenses of
such general inspectors shall be provided for in the same manner
as the expenses of other employees of state departments.~~

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Sec. 4104.42. (A) Each manufacturer, contractor, owner, or
user of power, refrigerating, hydraulic, heating and liquefied
petroleum gas, oxygen, or other gaseous piping systems shall
conduct tests required under rules adopted by the board of
building standards under division (A)(1) of section 4104.44 of the
Revised Code and certify in writing on forms provided under
section 4104.43 of the Revised Code by the superintendent of
industrial compliance in the department of commerce that the
welding and brazing procedures used in the construction of those
power, refrigerating, hydraulic, heating and liquefied petroleum
gas, oxygen, or other gaseous piping systems meet the standards
established by the board under division (A)(1) of section 4104.44
of the Revised Code.

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(B) 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 power,
refrigerating, hydraulic, heating and liquefied petroleum gas,
oxygen, or other gaseous piping systems shall maintain at least
one copy of the forms described in division (A) of this section
and make that copy accessible to any individual certified by the

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board of building standards pursuant to division (E) of section 3781.10 of the Revised Code. 32154
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(C) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code shall examine the forms described in division (A) of this section to determine compliance with the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code. 32156
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(D) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code with reason to question the certification or ability of any welder or brazer shall report the concerns to the superintendent of the division of industrial compliance in the department of commerce. The superintendent shall investigate those concerns. If the superintendent finds facts that substantiate the concerns of the individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code, the superintendent may require the welder or brazer in question to become recertified by a private vendor in the same manner by which five-year recertification is required under section 4104.46 of the Revised Code. The superintendent also may utilize the services of an independent testing laboratory to witness the welding or brazing performed on the project in question and to conduct tests on coupons to determine whether the coupons meet the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code. 32162
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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, 32181
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refrigerating, hydraulic, heating and liquefied petroleum gas, 32185
oxygen, or other gaseous piping system shall file with the 32186
superintendent of the division of industrial compliance two 32187
complete copies of forms provided by the superintendent that 32188
identify the welding and brazing procedure specifications and 32189
welder and brazer performance qualifications performed in the 32190
construction of that power, refrigerating, hydraulic, heating and 32191
liquefied petroleum gas, oxygen, or other gaseous piping system. 32192

(B)(1) Upon receipt of the forms filed under division (A) of 32193
this section, the superintendent shall review the welding and 32194
brazing procedure specifications and welder and brazer performance 32195
qualifications as indicated on the forms to determine compliance 32196
with rules adopted by the board of building standards under 32197
division (A)(1) of section 4104.44 of the Revised Code. 32198

(2) If the superintendent finds that the welding and brazing 32199
procedure specifications and welder and brazer performance 32200
qualifications comply with the requirements of the rules adopted 32201
by the board of building standards under division (A)(1) of 32202
section 4104.44 of the Revised Code, the superintendent shall 32203
approve the welding and brazing procedure specifications and 32204
welder and brazer performance qualifications as indicated on the 32205
forms and return one copy to the manufacturer, contractor, owner, 32206
or user of power, refrigerating, hydraulic, heating and liquefied 32207
petroleum gas, oxygen, or other gaseous piping systems who 32208
submitted the forms. 32209

(3) If the superintendent finds that the welding and brazing 32210
procedure specifications and welder and brazer performance 32211
qualifications do not comply with the requirements of the rules 32212
adopted by the board of building standards under division (A)(1) 32213
of section 4104.44 of the Revised Code, the superintendent shall 32214
indicate on the forms that the welding and brazing procedure 32215
specifications and welder and brazer performance qualifications 32216

are not approved and return one copy of the form to the 32217
manufacturer, contractor, owner, or user of power, refrigerating, 32218
hydraulic, heating and liquefied petroleum gas, oxygen, or other 32219
gaseous piping systems who submitted the forms with an explanation 32220
of why the welding and brazing procedure specifications and welder 32221
and brazer performance qualifications were not approved. 32222

Sec. 4104.44. (A) The board of building standards, 32223
established by section 3781.07 of the Revised Code, shall: 32224

(1) ~~Formulate~~ Adopt rules governing the design, plan review, 32225
approval, construction, and installation of power, refrigerating, 32226
hydraulic, heating, and liquefied petroleum gas, oxygen, and other 32227
gaseous piping systems. ~~Such~~ The rules shall prescribe uniform 32228
minimum standards necessary for the protection of the public 32229
health and safety and shall include rules establishing the safe 32230
working pressure to be carried by any such systems; a program for 32231
the certification of the welding and brazing procedures proposed 32232
to be used on any such system by the owner or operator of any 32233
welding or brazing business and for quinquennial performance 32234
testing of welders and brazers who work on any such system; and 32235
measures for the conservation of energy. ~~Such~~ The rules shall be 32236
based upon and follow generally accepted engineering standards, 32237
formulas, and practices established and pertaining to such piping 32238
construction, installation, and testing. The board may, for this 32239
purpose, adopt existing published standards, as well as amendments 32240
thereto subsequently published by the same authority. 32241

(2) Prescribe the tests, to ascertain the qualities of 32242
materials and welding and brazing materials used in the 32243
construction of power, refrigerating, hydraulic, heating, and 32244
liquefied petroleum gas, oxygen, and other gaseous piping systems; 32245

(3) Make a standard form of certificate of inspection; 32246

(4) Prescribe ~~the examinations for applicants for~~ 32247

~~certificates of competency provided for in section 4104.42 of the~~ 32248
~~Revised Code and performance tests to determine the proficiency of~~ 32249
~~welders and brazers;~~ 32250

(5) Certify municipal and county building departments to 32251
inspect power, refrigerating, hydraulic, heating, and liquefied 32252
petroleum gas, oxygen, and other gaseous piping systems and adopt 32253
rules governing such certification; 32254

~~(6) Establish the fee to be charged for an inspection made by~~ 32255
~~a general inspector and for the filing and auditing of special~~ 32256
~~inspector reports, and collect all fees established in this~~ 32257
~~section.~~ 32258

The fee for the quinquennial performance tests shall be 32259
fifteen dollars and the fee for certification of welding and 32260
brazing procedures mentioned in division (A) of this section shall 32261
be sixty dollars, except that the board of building standards, 32262
with the approval of the controlling board, may establish fees in 32263
excess of these fees, provided that the fees do not exceed the 32264
amounts of these fees by more than fifty per cent. The fee for 32265
each welding and brazing instruction sheet and procedure 32266
qualification record shall be fifteen dollars. Any moneys 32267
collected under this section shall be paid into the state treasury 32268
to the credit of the industrial compliance operating fund created 32269
in section 121.084 of the Revised Code. 32270

~~(B) Piping is exempt from the requirements for submission of~~ 32271
~~applications and inspections and the necessity to obtain permits,~~ 32272
~~as required under this section and section 4104.45 of the Revised~~ 32273
~~Code, or under rules adopted pursuant to those sections, for~~ 32274
~~power, refrigerating, hydraulic, heating, and liquefied petroleum~~ 32275
~~gas, oxygen, and gaseous piping systems if the piping is used;~~ 32276

~~(1) In air cooling systems in residential or commercial~~ 32277
~~buildings and if such systems do not exceed five tons (sixty~~ 32278

~~thousand British thermal units per hour) per system; or~~ 32279

~~(2) In air heating systems in residential or commercial~~ 32280
~~buildings and if such systems do not exceed one hundred fifty~~ 32281
~~thousand British thermal units per hour per system.~~ 32282

~~(C) The board of building standards may, by rule, exempt from~~ 32283
~~the rules adopted pursuant to division (A)(1) of this section any~~ 32284
~~pressure piping power, refrigerating, hydraulic, heating and~~ 32285
~~liquefied petroleum gas, oxygen, or other gaseous piping systems~~ 32286
~~which that pose no appreciable danger to the public health and~~ 32287
~~safety.~~ 32288

Sec. 4104.45. (A) Except as otherwise provided in section 32289
4104.44 of the Revised Code, new power, refrigerating, hydraulic, 32290
heating, liquefied petroleum gas, oxygen, and other gaseous piping 32291
systems shall be thoroughly inspected in accordance with the rules 32292
of the board of building standards. Such ~~inspection~~ inspections 32293
shall be performed by ~~one of the following:~~ 32294

~~(1) General inspectors of pressure piping systems;~~ 32295

~~(2) Special inspectors provided for in section 4104.43 of the~~ 32296
~~Revised Code;~~ 32297

~~(3) Local inspectors provided for in section 4104.43 of the~~ 32298
~~Revised Code.~~ 32299

~~(B) Owners or users of pressure piping systems required to be~~ 32300
~~inspected under this section shall pay to the division of~~ 32301
~~industrial compliance in the department of commerce a fee of one~~ 32302
~~hundred fifty dollars plus an additional fee determined as~~ 32303
~~follows:~~ 32304

~~(1) On or before June 30, 2000, two per cent of the actual~~ 32305
~~cost of the system for each inspection made by a general~~ 32306
~~inspector;~~ 32307

~~(2) On July 1, 2000, and through June 30, 2001, one and~~ 32308

~~eight tenths per cent of the actual cost of the system for each inspection made by a general inspector;~~ 32309
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~~(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.~~ 32311
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~~(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.~~ 32314
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~~(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.~~ 32319
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~~(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.~~ 32328
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~~(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 inspection fee inspectors designated by the superintendent of the division of industrial compliance in the department of commerce or, within jurisdictional limits established by the board of building standards, by individuals certified by the board of building standards pursuant to division (E) of section 3781.10 of~~ 32331
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the Revised Code who are designated to do so by local building departments, as appropriate. 32340
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~~(G)~~(B) The superintendent of the division of industrial compliance in the department of commerce may issue adjudication orders as necessary for the enforcement of sections 4104.41 to 4104.46 4104.48 of the Revised Code and rules adopted under those sections. No person shall violate or fail to comply with the terms and conditions of an adjudication order issued under this division. Adjudication orders issued pursuant to this division and appeals thereof are governed by section 3781.19 of the Revised Code. 32342
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Sec. 4104.46. (A) The design, installation, and testing of nonflammable medical gas and vacuum piping systems within the scope of the national fire protection association standard, section 1-1 of "NFPA 99C, Gas and Vacuum Systems," is governed by that national fire protection association standard. 32351
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(B) Installers, inspectors, verifiers, construction contracting maintenance personnel, and instructors for the design, installation, and testing of nonflammable medical gas and vacuum piping systems shall obtain certification by the American society of sanitary engineers in accordance with the American society of sanitary engineering series 6000 requirements. 32356
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Sec. 4104.47. (A) No individual other than one certified by a private vendor in accordance with rules adopted by the board of building standards shall perform welding or brazing or both in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems. 32362
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(B) Each welder or brazer certified by a private vendor to perform welding or brazing or both in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, 32367
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oxygen, or other gaseous piping systems shall be recertified by a 32370
private vendor to perform those services five years after the date 32371
of the original certification and every five years thereafter in 32372
accordance with rules adopted by the board. A private vendor shall 32373
recertify a welder or brazer who meets the requirements 32374
established by the board under division (A)(1) of section 4104.44 32375
of the Revised Code. 32376

Sec. ~~4104.46~~ 4104.48. (A) No person shall violate sections 32377
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code, fail to perform 32378
any duty lawfully enjoined in connection with those sections, or 32379
fail to comply with any order issued by the superintendent of the 32380
division of industrial compliance or any judgment or decree issued 32381
by any court in connection with the enforcement of sections 32382
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code. 32383

(B) Every day during which a person violates sections 4104.41 32384
to ~~4104.46~~ 4104.48 of the Revised Code, fails to perform any duty 32385
lawfully enjoined in connection with those sections, or fails to 32386
comply with any order issued by the superintendent of the division 32387
of industrial compliance or any judgment or decree issued by any 32388
court in connection with the enforcement of sections 4104.41 to 32389
~~4104.46~~ 4104.48 of the Revised Code constitutes a separate 32390
offense. 32391

Sec. 4105.17. (A) The fee for each inspection, or attempted 32392
inspection that, due to no fault of a general inspector or the 32393
division of industrial compliance, is not successfully completed, 32394
by a general inspector before the operation of a permanent new 32395
elevator prior to the issuance of a certificate of operation, 32396
before operation of an elevator being put back into service after 32397
a repair, or as a result of the operation of section 4105.08 of 32398
the Revised Code and is an elevator required to be inspected under 32399
this chapter is twenty dollars plus ten dollars for each floor 32400

where the elevator stops. The superintendent of industrial 32401
compliance may assess an additional fee of one hundred twenty-five 32402
dollars plus five dollars for each floor where an elevator stops 32403
for the reinspection of an elevator when a previous attempt to 32404
inspect that elevator has been unsuccessful through no fault of a 32405
general inspector or the division of industrial compliance. 32406

(B) The fee for each inspection, or attempted inspection, 32407
that due to no fault of the general inspector or the division of 32408
industrial compliance, is not successfully completed by a general 32409
inspector before operation of a permanent new escalator or moving 32410
walk prior to the issuance of a certificate of operation, before 32411
operation of an escalator or moving walk being put back in service 32412
after a repair, or as a result of the operation of section 4105.08 32413
of the Revised Code is three hundred dollars. The superintendent 32414
of the division of industrial compliance may assess an additional 32415
fee of one hundred fifty dollars for the reinspection of an 32416
escalator or moving walk when a previous attempt to inspect that 32417
escalator or moving walk has been unsuccessful through no fault of 32418
the general inspector or the division of industrial compliance. 32419

(C) The fee for issuing or renewing a certificate of 32420
operation under section 4105.15 of the Revised Code for an 32421
elevator that is inspected every six months in accordance with 32422
division (A) of section 4105.10 of the Revised Code is ~~one~~ two 32423
hundred ~~five~~ dollars plus ten dollars for each floor where the 32424
elevator stops, except where the elevator has been inspected by a 32425
special inspector in accordance with section 4105.07 of the 32426
Revised Code. 32427

(D) The fee for issuing or renewing a certificate of 32428
operation under section 4105.05 of the Revised Code for an 32429
elevator that is inspected every twelve months in accordance with 32430
division (A) of section 4105.10 of the Revised Code is fifty-five 32431
dollars plus ten dollars for each floor where the elevator stops, 32432

except where the elevator has been inspected by a special 32433
inspector in accordance with section 4105.07 of the Revised Code. 32434

(E) The fee for issuing or renewing a certificate of 32435
operation under section 4105.15 of the Revised Code for an 32436
escalator or moving walk is three hundred dollars, except where 32437
the escalator or moving walk has been inspected by a special 32438
inspector in accordance section 4105.07 of the Revised Code. 32439

(F) All other fees to be charged for any examination given or 32440
other service performed by the division of industrial compliance 32441
pursuant to this chapter shall be prescribed by the director of 32442
commerce. The fees shall be reasonably related to the costs of 32443
such examination or other service. 32444

(G) The director of commerce, subject to the approval of the 32445
controlling board, may establish fees in excess of the fees 32446
provided in divisions (A) ~~and~~, (B), (C), (D), and (E) of this 32447
section, ~~provided that the fees do not exceed the amounts~~ 32448
~~established in divisions (A) and (B) of this section by more than~~ 32449
~~fifty per cent~~. Any moneys collected under this section shall be 32450
paid into the state treasury to the credit of the industrial 32451
compliance operating fund created in section 121.084 of the 32452
Revised Code. 32453

(H) Any person who fails to pay an inspection fee required 32454
for any inspection conducted by the division pursuant to this 32455
chapter within forty-five days after the inspection is conducted 32456
shall pay a late payment fee equal to twenty-five per cent of the 32457
inspection fee. 32458

(I) In addition to the fees assessed in divisions (A), (B), 32459
(C), ~~and~~ (D), and (E) of this section, the board of building 32460
standards shall assess a fee of three dollars and twenty-five 32461
cents for each certificate of operation or renewal thereof issued 32462
under ~~division~~ divisions (A), (B), (C), (D), or (E) of this 32463

section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of industrial compliance 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.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

Sec. 4112.15. There is hereby created in the state treasury the civil rights commission general reimbursement fund, which shall be used to pay operating costs of the commission. All amounts received by the commission, and all amounts awarded by a court to the commission, for attorney's fees, court costs, expert witness fees, and other litigation expenses shall be paid into the state treasury to the credit of the fund. ~~All money paid to amounts received by~~ the commission for copies of commission documents and for other goods and services furnished by the commission shall be ~~credited~~ paid into the state treasury to the credit of the fund.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B)(1) or (2) of section 4115.03 of the Revised Code, adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code, shall violate the wage provisions of sections

4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 32494
require any employee to work for less than the rate of wages so 32495
fixed, or violate the provisions of section 4115.07 of the Revised 32496
Code. Any employee upon any public improvement, except an employee 32497
to whom or on behalf of whom restitution is made pursuant to 32498
division (C) of section 4115.13 of the Revised Code, who is paid 32499
less than the fixed rate of wages applicable thereto may recover 32500
from such person, firm, corporation, or public authority that 32501
constructs a public improvement with its own forces the difference 32502
between the fixed rate of wages and the amount paid to the 32503
employee and in addition thereto a sum equal to twenty-five per 32504
cent of that difference. The person, firm, corporation, or public 32505
authority who fails to pay the rate of wages so fixed also shall 32506
pay a penalty to the director of seventy-five per cent of the 32507
difference between the fixed rate of wages and the amount paid to 32508
the employees on the public improvement. The director shall 32509
deposit all moneys received from penalties paid to the director 32510
pursuant to this section into the penalty enforcement fund, which 32511
is hereby created in the state treasury. The director shall use 32512
the fund for the enforcement of sections 4115.03 to 4115.16 of the 32513
Revised Code. The employee may file suit for recovery within ~~sixty~~ 32514
ninety days of the director's determination of a violation of 32515
sections 4115.03 to 4115.16 of the Revised Code or is barred from 32516
further action under this division. Where the employee prevails in 32517
a suit, the employer shall pay the costs and reasonable attorney's 32518
fees allowed by the court. 32519

(B) Any employee upon any public improvement who is paid less 32520
than the prevailing rate of wages applicable thereto may file a 32521
complaint in writing with the director upon a form furnished by 32522
the director. ~~At the written request~~ The complaint shall include 32523
documented evidence to demonstrate that the employee was paid less 32524
than the prevailing wage in violation of this chapter. Upon 32525
receipt of a properly completed written complaint of any employee 32526

paid less than the prevailing rate of wages applicable, the 32527
director shall take an assignment of a claim in trust for the 32528
assigning employee and bring any legal action necessary to collect 32529
the claim. The employer shall pay the costs and reasonable 32530
attorney's fees allowed by the court if the employer is found in 32531
violation of sections 4115.03 to 4115.16 of the Revised Code. 32532

(C) If after investigation pursuant to section 4115.13 of the 32533
Revised Code, the director determines there is a violation of 32534
sections 4115.03 to 4115.16 of the Revised Code and a period of 32535
sixty days has elapsed from the date of the determination, and if: 32536

(1) No employee has brought suit pursuant to division (A) of 32537
this section; 32538

(2) No employee has requested that the director take an 32539
assignment of a wage claim pursuant to division (B) of this 32540
section; 32541

The director shall bring any legal action necessary to 32542
collect any amounts owed to employees and the director. The 32543
director shall pay over to the affected employees the amounts 32544
collected to which the affected employees are entitled under 32545
division (A) of this section. In any action in which the director 32546
prevails, the employer shall pay the costs and reasonable 32547
attorney's fees allowed by the court. 32548

(D) Where persons are employed and their rate of wages has 32549
been determined as provided in section 4115.04 of the Revised 32550
Code, no person, either for self or any other person, shall 32551
request, demand, or receive, either before or after the person is 32552
engaged, that the person so engaged pay back, return, donate, 32553
contribute, or give any part or all of the person's wages, salary, 32554
or thing of value, to any person, upon the statement, 32555
representation, or understanding that failure to comply with such 32556
request or demand will prevent the procuring or retaining of 32557

employment, and no person shall, directly or indirectly, aid, 32558
request, or authorize any other person to violate this section. 32559
This division does not apply to any agent or representative of a 32560
duly constituted labor organization acting in the collection of 32561
dues or assessments of such organization. 32562

(E) The director shall enforce sections 4115.03 to 4115.16 of 32563
the Revised Code. 32564

(F) For the purpose of supplementing existing resources and 32565
to assist in enforcing division (E) of this section, the director 32566
may contract with a person registered as a public accountant under 32567
Chapter 4701. of the Revised Code to conduct an audit of a person, 32568
firm, corporation, or public authority. 32569

Sec. 4115.21. A person who files an action alleging a 32570
violation of sections 4115.03 to 4115.16 of the Revised Code shall 32571
file the action within two years after the alleged violation 32572
occurred or be barred from further action under this chapter. 32573

Sec. 4117.02. (A) There is hereby created the state 32574
employment relations board, consisting of three members to be 32575
appointed by the governor with the advice and consent of the 32576
senate. Members shall be knowledgeable about labor relations or 32577
personnel practices. No more than two of the three members shall 32578
belong to the same political party. A member of the board during 32579
the member's period of service shall hold no other public office 32580
or public or private employment and shall allow no other 32581
responsibilities to interfere or conflict with the member's duties 32582
as a full-time board member. Of the initial appointments made to 32583
the board, one shall be for a term ending October 6, 1984, one 32584
shall be for a term ending October 6, 1985, and one shall be for a 32585
term ending October 6, 1986. Thereafter, terms of office shall be 32586
for six years, each term ending on the same day of the same month 32587

of the year as did the term that it succeeds. Each member shall 32588
hold office from the date of the member's appointment until the 32589
end of the term for which the member is appointed. Any member 32590
appointed to fill a vacancy occurring prior to the expiration of 32591
the term for which the member's predecessor was appointed shall 32592
hold office for the remainder of the term. Any member shall 32593
continue in office subsequent to the expiration of the member's 32594
term until the member's successor takes office or until a period 32595
of sixty days has elapsed, whichever occurs first. The 32596

~~The governor shall designate one member to serve as~~ 32597
~~chairperson of the board.~~ The governor may remove any member of 32598
the board, upon notice and public hearing, for neglect of duty or 32599
malfeasance in office, but for no other cause. 32600

(B) A (1) The governor shall designate one member of the 32601
board to serve as chairperson of the board. The chairperson is the 32602
head of the board and its chief executive officer. 32603

(2) The chairperson shall exercise all administrative powers 32604
and duties conferred upon the board under this chapter and shall 32605
do all of the following: 32606

(a) Except as provided in division (F)(2) of this section, 32607
employ, promote, supervise, and remove all employees of the board, 32608
and establish, change, or abolish positions and assign or reassign 32609
the duties of those employees as the chairperson determines 32610
necessary to achieve the most efficient performance of the board's 32611
duties under this chapter; 32612

(b) Maintain the office of the board in Columbus and manage 32613
the office's daily operations, including securing facilities, 32614
equipment, and supplies necessary to house the board, employees of 32615
the board, and files and records under the board's control; 32616

(c) Prepare and submit to the office of budget and management 32617
a budget for each biennium according to section 107.03 of the 32618

Revised Code, and include in the budget the costs of the board and 32619
its staff and the board's costs in discharging any duty imposed by 32620
law upon the board, the chairperson, or any of the board's 32621
employees or agents. 32622

(C) The vacancy on the board does not impair the right of the 32623
remaining members to exercise all the powers of the board, and two 32624
members of the board, at all times, constitute a quorum. The board 32625
shall have an official seal of which courts shall take judicial 32626
notice. 32627

~~(C)~~(D) The board shall make an annual report in writing to 32628
the governor and to the general assembly, stating in detail the 32629
work it has done. 32630

~~(D)~~(E) Compensation of the chairperson and members shall be 32631
in accordance with division (J) of section 124.15 of the Revised 32632
Code. The chairperson and the members are eligible for 32633
reappointment. In addition to such compensation, all members shall 32634
be reimbursed for their necessary expenses incurred in the 32635
performance of their work as members. 32636

~~(E)~~(F)(1) The chairperson, after consulting with the other 32637
board members and receiving the consent of at least one other 32638
board member, shall appoint an executive director ~~and.~~ The 32639
chairperson also shall appoint attorneys, and attorney-trial 32640
~~examiners, mediators, arbitrators, members of fact finding panels,~~ 32641
~~directors for local areas, and other employees as it finds~~ 32642
~~necessary for the proper performance of its duties and may~~ 32643
~~prescribe their duties.~~ The 32644

(2) The board shall appoint mediators, arbitrators, members 32645
of fact-finding panels, and directors for local areas, and shall 32646
prescribe their job duties. 32647

(G)(1) The executive director shall serve at the pleasure of 32648
the chairperson. The executive director, under the direction of 32649

the chairperson, shall do all of the following: 32650

(a) Act as chief administrative officer for the board; 32651

(b) Ensure that all employees of the board comply with the
rules of the board; 32652
32653

(c) Do all things necessary for the efficient and effective
implementation of the duties of the board. 32654
32655

(2) The duties of the executive director described in
division (G)(1) of this section do not relieve the chairperson
from final responsibility for the proper performance of the duties
described in that division. 32656
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(H) The attorney general shall be the legal adviser of the 32660
board and shall appear for and represent the board and its agents 32661
in all legal proceedings. The board may utilize regional, local, 32662
or other agencies, and utilize voluntary and uncompensated 32663
services as needed. The board may contract with the federal 32664
mediation and conciliation service for the assistance of 32665
mediators, arbitrators, and other personnel the service makes 32666
available. The board and the chairperson, respectively, shall 32667
appoint all employees on the basis of training, practical 32668
experience, education, and character, notwithstanding the 32669
requirements established by section 119.09 of the Revised Code. 32670
The board shall give special regard to the practical training and 32671
experience that employees have for the particular position 32672
involved. All full-time employees of the board excepting the 32673
executive director, the head of the bureau of mediation, and the 32674
personal secretaries and assistants of the board members are in 32675
the classified service. All employees of the board shall be paid 32676
in accordance with Chapter 124. of the Revised Code. 32677

~~(F)~~(I) The board shall select and assign examiners and other 32678
agents whose functions are to conduct hearings with due regard to 32679
their impartiality, judicial temperament, and knowledge. If in any 32680

proceeding under this chapter, any party prior to five days before 32681
the hearing thereto files with the board a sworn statement 32682
charging that the examiner or other agent designated to conduct 32683
the hearing is biased or partial in the proceeding, the board may 32684
disqualify the person and designate another examiner or agent to 32685
conduct the proceeding. At least ten days before any hearing, the 32686
board shall notify all parties to a proceeding of the name of the 32687
examiner or agent designated to conduct the hearing. 32688

~~(G)~~(J) The principal office of the board is in Columbus, but 32689
it may meet and exercise any or all of its powers at any other 32690
place within the state. The board may, by one or more of its 32691
employees, or any agents or agencies it designates, conduct in any 32692
part of this state any proceeding, hearing, investigation, 32693
inquiry, or election necessary to the performance of its 32694
functions; provided, that no person so designated may later sit in 32695
determination of an appeal of the decision of that cause or 32696
matter. 32697

~~(H)~~(K) In addition to the powers and functions provided in 32698
other sections of this chapter, the board shall do all of the 32699
following: 32700

(1) Create a bureau of mediation within the state employment 32701
relations board, to perform the functions provided in section 32702
4117.14 of the Revised Code. This bureau shall also establish, 32703
after consulting representatives of employee organizations and 32704
public employers, panels of qualified persons to be available to 32705
serve as members of fact-finding panels and arbitrators. 32706

(2) Conduct studies of problems involved in representation 32707
and negotiation and make recommendations for legislation; 32708

(3) Hold hearings pursuant to this chapter and, for the 32709
purpose of the hearings and inquiries, administer oaths and 32710
affirmations, examine witnesses and documents, take testimony and 32711

receive evidence, compel the attendance of witnesses and the 32712
production of documents by the issuance of subpoenas, and delegate 32713
these powers to any members of the board or any attorney-trial 32714
examiner appointed by the board for the performance of its 32715
functions; 32716

(4) Train representatives of employee organizations and 32717
public employers in the rules and techniques of collective 32718
bargaining procedures; 32719

(5) Make studies and analyses of, and act as a clearinghouse 32720
of information relating to, conditions of employment of public 32721
employees throughout the state and request assistance, services, 32722
and data from any public employee organization, public employer, 32723
or governmental unit. Public employee organizations, public 32724
employers, and governmental units shall provide such assistance, 32725
services, and data as will enable the board to carry out its 32726
functions and powers. 32727

(6) Make available to employee organizations, public 32728
employers, mediators, fact-finding panels, arbitrators, and joint 32729
study committees statistical data relating to wages, benefits, and 32730
employment practices in public and private employment applicable 32731
to various localities and occupations to assist them to resolve 32732
issues in negotiations; 32733

(7) Notwithstanding section 119.13 of the Revised Code, 32734
establish standards of persons who practice before it; 32735

(8) Adopt, amend, and rescind rules and procedures and 32736
exercise other powers appropriate to carry out this chapter. 32737
Before the adoption, amendment, or rescission of rules and 32738
procedures under this section, the board shall do all of the 32739
following: 32740

(a) Maintain a list of interested public employers and 32741
employee organizations and mail notice to such groups of any 32742

proposed rule or procedure, amendment thereto, or rescission 32743
thereof at least thirty days before any public hearing thereon; 32744

(b) Mail a copy of each proposed rule or procedure, amendment 32745
thereto, or rescission thereof to any person who requests a copy 32746
within five days after receipt of the request therefor; 32747

(c) Consult with appropriate statewide organizations 32748
representing public employers or employees who would be affected 32749
by the proposed rule or procedure. 32750

Although the board is expected to discharge these duties 32751
diligently, failure to mail any notice or copy, or to so consult 32752
with any person, is not jurisdictional and shall not be construed 32753
to invalidate any proceeding or action of the board. 32754

~~(I)~~(L) In case of neglect or refusal to obey a subpoena 32755
issued to any person, the court of common pleas of the county in 32756
which the investigation or the public hearing occurs, upon 32757
application by the board, may issue an order requiring the person 32758
to appear before the board and give testimony about the matter 32759
under investigation. The court may punish a failure to obey the 32760
order as contempt. 32761

~~(J)~~(M) Any subpoena, notice of hearing, or other process or 32762
notice of the board issued under this section may be served 32763
personally, by certified mail, or by leaving a copy at the 32764
principal office or personal residence of the respondent required 32765
to be served. A return, made and verified by the individual making 32766
the service and setting forth the manner of service, is proof of 32767
service, and a return post office receipt, when certified mail is 32768
used, is proof of service. All process in any court to which 32769
application is made under this chapter may be served in the county 32770
wherein the persons required to be served reside or are found. 32771

~~(K)~~(N) All expenses of the board, including all necessary 32772
traveling and subsistence expenses incurred by the members or 32773

employees of the board under its orders, shall be paid pursuant to 32774
itemized vouchers approved by the chairperson of the board, the 32775
executive director, or both, or such other person as the ~~board~~ 32776
chairperson designates for that purpose. 32777

~~(L)~~(O) Whenever the board determines that a substantial 32778
controversy exists with respect to the application or 32779
interpretation of this chapter and the matter is of public or 32780
great general interest, the board shall certify its final order 32781
directly to the court of appeals having jurisdiction over the area 32782
in which the principal office of the public employer directly 32783
affected by the application or interpretation is located. The 32784
chairperson shall file with the clerk of the court a certified 32785
copy of the transcript of the proceedings before the board 32786
pertaining to the final order. If upon hearing and consideration 32787
the court decides that the final order of the board is unlawful or 32788
is not supported by substantial evidence on the record as a whole, 32789
the court shall reverse and vacate the final order or modify it 32790
and enter final judgment in accordance with the modification; 32791
otherwise, the court shall affirm the final order. The notice of 32792
the final order of the board to the interested parties shall 32793
contain a certification by the chairperson of the board that the 32794
final order is of public or great general interest and that a 32795
certified transcript of the record of the proceedings before the 32796
board had been filed with the clerk of the court as an appeal to 32797
the court. For the purposes of this division, the board has 32798
standing to bring its final order properly before the court of 32799
appeals. 32800

~~(M)~~(P) Except as otherwise specifically provided in this 32801
section, the board is subject to Chapter 119. of the Revised Code, 32802
including the procedure for submission of proposed rules to the 32803
general assembly for legislative review under division (H) of 32804
section 119.03 of the Revised Code. 32805

Sec. 4117.14. (A) The procedures contained in this section 32806
govern the settlement of disputes between an exclusive 32807
representative and a public employer concerning the termination or 32808
modification of an existing collective bargaining agreement or 32809
negotiation of a successor agreement, or the negotiation of an 32810
initial collective bargaining agreement. 32811

(B)(1) In those cases where there exists a collective 32812
bargaining agreement, any public employer or exclusive 32813
representative desiring to terminate, modify, or negotiate a 32814
successor collective bargaining agreement shall: 32815

(a) Serve written notice upon the other party of the proposed 32816
termination, modification, or successor agreement. The party must 32817
serve the notice not less than sixty days prior to the expiration 32818
date of the existing agreement or, in the event the existing 32819
collective bargaining agreement does not contain an expiration 32820
date, not less than sixty days prior to the time it is proposed to 32821
make the termination or modifications or to make effective a 32822
successor agreement. 32823

(b) Offer to bargain collectively with the other party for 32824
the purpose of modifying or terminating any existing agreement or 32825
negotiating a successor agreement; 32826

(c) Notify the state employment relations board of the offer 32827
by serving upon the board a copy of the written notice to the 32828
other party and a copy of the existing collective bargaining 32829
agreement. 32830

(2) In the case of initial negotiations between a public 32831
employer and an exclusive representative, where a collective 32832
bargaining agreement has not been in effect between the parties, 32833
any party may serve notice upon the board and the other party 32834
setting forth the names and addresses of the parties and offering 32835

to meet, for a period of ninety days, with the other party for the purpose of negotiating a collective bargaining agreement.

If the settlement procedures specified in divisions (B), (C), and (D) of this section govern the parties, where those procedures refer to the expiration of a collective bargaining agreement, it means the expiration of the sixty-day period to negotiate a collective bargaining agreement referred to in this subdivision, or in the case of initial negotiations, it means the ninety day period referred to in this subdivision.

(3) The parties shall continue in full force and effect all the terms and conditions of any existing collective bargaining agreement, without resort to strike or lock-out, for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever occurs later, or for a period of ninety days where applicable.

(4) Upon receipt of the notice, the parties shall enter into collective bargaining.

(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.

(1) The procedures may include:

(a) Conventional arbitration of all unsettled issues;

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package;

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted;

(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;

(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.

(f) Any other dispute settlement procedure mutually agreed to by the parties.

(2) If, fifty days before the expiration date of the collective bargaining agreement, the parties are unable to reach an agreement, any party may request the state employment relations board to intervene. The request shall set forth the names and addresses of the parties, the issues involved, and, if applicable, the expiration date of any agreement.

The board shall intervene and investigate the dispute to determine whether the parties have engaged in collective bargaining.

If an impasse exists or forty-five days before the expiration date of the collective bargaining agreement if one exists, the board shall appoint a mediator to assist the parties in the collective bargaining process.

~~(3) If the mediator after assisting the parties advises the board that the parties have reached an impasse, or not later than~~

~~thirty one days prior to the expiration date of the agreement~~ Any 32897
time after the appointment of a mediator, either party may request 32898
the appointment of a fact-finding panel. Within fifteen days after 32899
receipt of a request for a fact-finding panel, the board shall 32900
appoint ~~within one day~~ a fact-finding panel of not more than three 32901
members who have been selected by the parties in accordance with 32902
rules established by the board, from a list of qualified persons 32903
maintained by the board. 32904

(a) The fact-finding panel shall, in accordance with rules 32905
and procedures established by the board that include the 32906
regulation of costs and expenses of fact-finding, gather facts and 32907
make recommendations for the resolution of the matter. The board 32908
shall by its rules require each party to specify in writing the 32909
unresolved issues and its position on each issue to the 32910
fact-finding panel. The fact-finding panel shall make final 32911
recommendations as to all the unresolved issues. 32912

(b) The board may continue mediation, order the parties to 32913
engage in collective bargaining until the expiration date of the 32914
agreement, or both. 32915

(4) The following guidelines apply to fact-finding: 32916

(a) The fact-finding panel may establish times and place of 32917
hearings which shall be, where feasible, in the jurisdiction of 32918
the state. 32919

(b) The fact-finding panel shall conduct the hearing pursuant 32920
to rules established by the board. 32921

(c) Upon request of the fact-finding panel, the board shall 32922
issue subpoenas for hearings conducted by the panel. 32923

(d) The fact-finding panel may administer oaths. 32924

(e) The board shall prescribe guidelines for the fact-finding 32925
panel to follow in making findings. In making its recommendations, 32926

the fact-finding panel shall take into consideration the factors 32927
listed in divisions (G)(7)(a) to (f) of this section. 32928

(f) The fact-finding panel may attempt mediation at any time 32929
during the fact-finding process. From the time of appointment 32930
until the fact-finding panel makes a final recommendation, it 32931
shall not discuss the recommendations for settlement of the 32932
dispute with parties other than the direct parties to the dispute. 32933

(5) The fact-finding panel, acting by a majority of its 32934
members, shall transmit its findings of fact and recommendations 32935
on the unresolved issues to the public employer and employee 32936
organization involved and to the board no later than fourteen days 32937
after the appointment of the fact-finding panel, unless the 32938
parties mutually agree to an extension. The ~~state parties~~ shall 32939
~~pay one half share~~ the cost of the fact-finding panel. ~~The parties~~ 32940
~~each shall pay one half of the remaining costs in a manner agreed~~
~~to by the parties.~~ 32941
32942

(6)(a) Not later than seven days after the findings and 32943
recommendations are sent, the legislative body, by a three-fifths 32944
vote of its total membership, and in the case of the public 32945
employee organization, the membership, by a three-fifths vote of 32946
the total membership, may reject the recommendations; if neither 32947
rejects the recommendations, the recommendations shall be deemed 32948
agreed upon as the final resolution of the issues submitted and a 32949
collective bargaining agreement shall be executed between the 32950
parties, including the fact-finding panel's recommendations, 32951
except as otherwise modified by the parties by mutual agreement. 32952
If either the legislative body or the public employee organization 32953
rejects the recommendations, the board shall publicize the 32954
findings of fact and recommendations of the fact-finding panel. 32955
The board shall adopt rules governing the procedures and methods 32956
for public employees to vote on the recommendations of the 32957
fact-finding panel. 32958

(b) As used in division (C)(6)(a) of this section, 32959
"legislative body" means the controlling board when the state or 32960
any of its agencies, authorities, commissions, boards, or other 32961
branch of public employment is party to the fact-finding process. 32962

(D) If the parties are unable to reach agreement within seven 32963
days after the publication of findings and recommendations from 32964
the fact-finding panel or the collective bargaining agreement, if 32965
one exists, has expired, then the: 32966

(1) Public employees, who are members of a police or fire 32967
department, members of the state highway patrol, deputy sheriffs, 32968
dispatchers employed by a police, fire or sheriff's department or 32969
the state highway patrol or civilian dispatchers employed by a 32970
public employer other than a police, fire, or sheriff's department 32971
to dispatch police, fire, sheriff's department, or emergency 32972
medical or rescue personnel and units, an exclusive nurse's unit, 32973
employees of the state school for the deaf or the state school for 32974
the blind, employees of any public employee retirement system, 32975
corrections officers, guards at penal or mental institutions, 32976
special police officers appointed in accordance with sections 32977
5119.14 and 5123.13 of the Revised Code, psychiatric attendants 32978
employed at mental health forensic facilities, or youth leaders 32979
employed at juvenile correctional facilities, shall submit the 32980
matter to a final offer settlement procedure pursuant to a board 32981
order issued forthwith to the parties to settle by a conciliator 32982
selected by the parties. The parties shall request from the board 32983
a list of five qualified conciliators and the parties shall select 32984
a single conciliator from the list by alternate striking of names. 32985
If the parties cannot agree upon a conciliator within five days 32986
after the board order, the board shall on the sixth day after its 32987
order appoint a conciliator from a list of qualified persons 32988
maintained by the board or shall request a list of qualified 32989
conciliators from the American arbitration association and appoint 32990

therefrom. 32991

(2) Public employees other than those listed in division 32992
(D)(1) of this section have the right to strike under Chapter 32993
4117. of the Revised Code provided that the employee organization 32994
representing the employees has given a ten-day prior written 32995
notice of an intent to strike to the public employer and to the 32996
board, and further provided that the strike is for full, 32997
consecutive work days and the beginning date of the strike is at 32998
least ten work days after the ending date of the most recent prior 32999
strike involving the same bargaining unit; however, the board, at 33000
its discretion, may attempt mediation at any time. 33001

(E) Nothing in this section shall be construed to prohibit 33002
the parties, at any time, from voluntarily agreeing to submit any 33003
or all of the issues in dispute to any other alternative dispute 33004
settlement procedure. An agreement or statutory requirement to 33005
arbitrate or to settle a dispute pursuant to a final offer 33006
settlement procedure and the award issued in accordance with the 33007
agreement or statutory requirement is enforceable in the same 33008
manner as specified in division (B) of section 4117.09 of the 33009
Revised Code. 33010

(F) Nothing in this section shall be construed to prohibit a 33011
party from seeking enforcement of a collective bargaining 33012
agreement or a conciliator's award as specified in division (B) of 33013
section 4117.09 of the Revised Code. 33014

(G) The following guidelines apply to final offer settlement 33015
proceedings under division (D)(1) of this section: 33016

(1) The parties shall submit to final offer settlement those 33017
issues that are subject to collective bargaining as provided by 33018
section 4117.08 of the Revised Code and upon which the parties 33019
have not reached agreement and other matters mutually agreed to by 33020
the public employer and the exclusive representative; except that 33021

the conciliator may attempt mediation at any time. 33022

(2) The conciliator shall hold a hearing within thirty days 33023
of the board's order to submit to a final offer settlement 33024
procedure, or as soon thereafter as is practicable. 33025

(3) The conciliator shall conduct the hearing pursuant to 33026
rules developed by the board. The conciliator shall establish the 33027
hearing time and place, but it shall be, where feasible, within 33028
the jurisdiction of the state. Not later than five calendar days 33029
before the hearing, each of the parties shall submit to the 33030
conciliator, to the opposing party, and to the board, a written 33031
report summarizing the unresolved issues, the party's final offer 33032
as to the issues, and the rationale for that position. 33033

(4) Upon the request by the conciliator, the board shall 33034
issue subpoenas for the hearing. 33035

(5) The conciliator may administer oaths. 33036

(6) The conciliator shall hear testimony from the parties and 33037
provide for a written record to be made of all statements at the 33038
hearing. The board shall submit for inclusion in the record and 33039
for consideration by the conciliator the written report and 33040
recommendation of the fact-finders. 33041

(7) After hearing, the conciliator shall resolve the dispute 33042
between the parties by selecting, on an issue-by-issue basis, from 33043
between each of the party's final settlement offers, taking into 33044
consideration the following: 33045

(a) Past collectively bargained agreements, if any, between 33046
the parties; 33047

(b) Comparison of the issues submitted to final offer 33048
settlement relative to the employees in the bargaining unit 33049
involved with those issues related to other public and private 33050
employees doing comparable work, giving consideration to factors 33051

peculiar to the area and classification involved; 33052

(c) The interests and welfare of the public, the ability of 33053
the public employer to finance and administer the issues proposed, 33054
and the effect of the adjustments on the normal standard of public 33055
service; 33056

(d) The lawful authority of the public employer; 33057

(e) The stipulations of the parties; 33058

(f) Such other factors, not confined to those listed in this 33059
section, which are normally or traditionally taken into 33060
consideration in the determination of the issues submitted to 33061
final offer settlement through voluntary collective bargaining, 33062
mediation, fact-finding, or other impasse resolution procedures in 33063
the public service or in private employment. 33064

(8) Final offer settlement awards made under Chapter 4117. of 33065
the Revised Code are subject to Chapter 2711. of the Revised Code. 33066

(9) If more than one conciliator is used, the determination 33067
must be by majority vote. 33068

(10) The conciliator shall make written findings of fact and 33069
promulgate a written opinion and order upon the issues presented 33070
to the conciliator, and upon the record made before the 33071
conciliator and shall mail or otherwise deliver a true copy 33072
thereof to the parties and the board. 33073

(11) Increases in rates of compensation and other matters 33074
with cost implications awarded by the conciliator may be effective 33075
only at the start of the fiscal year next commencing after the 33076
date of the final offer settlement award; provided that if a new 33077
fiscal year has commenced since the issuance of the board order to 33078
submit to a final offer settlement procedure, the awarded 33079
increases may be retroactive to the commencement of the new fiscal 33080
year. The parties may, at any time, amend or modify a 33081

conciliator's award or order by mutual agreement. 33082

(12) The parties shall bear equally the cost of the final 33083
offer settlement procedure. 33084

(13) Conciliators appointed pursuant to this section shall be 33085
residents of the state. 33086

(H) All final offer settlement awards and orders of the 33087
conciliator made pursuant to Chapter 4117. of the Revised Code are 33088
subject to review by the court of common pleas having jurisdiction 33089
over the public employer as provided in Chapter 2711. of the 33090
Revised Code. If the public employer is located in more than one 33091
court of common pleas district, the court of common pleas in which 33092
the principal office of the chief executive is located has 33093
jurisdiction. 33094

(I) The issuance of a final offer settlement award 33095
constitutes a binding mandate to the public employer and the 33096
exclusive representative to take whatever actions are necessary to 33097
implement the award. 33098

Sec. 4123.27. Information contained in the annual statement 33099
provided for in section 4123.26 of the Revised Code, and such 33100
other information as may be furnished to the bureau of workers' 33101
compensation by employers in pursuance of that section, is for the 33102
exclusive use and information of the bureau in the discharge of 33103
its official duties, and shall not be open to the public nor be 33104
used in any court in any action or proceeding pending therein 33105
unless the bureau is a party to the action or proceeding; but the 33106
information contained in the statement may be tabulated and 33107
published by the bureau in statistical form for the use and 33108
information of other state departments and the public. No person 33109
in the employ of the bureau, except those who are authorized by 33110
the administrator of workers' compensation, shall divulge any 33111
information secured by the person while in the employ of the 33112

bureau in respect to the transactions, property, claim files, 33113
records, or papers of the bureau or in respect to the business or 33114
mechanical, chemical, or other industrial process of any company, 33115
firm, corporation, person, association, partnership, or public 33116
utility to any person other than the administrator or to the 33117
superior of such employee of the bureau. 33118

Notwithstanding the restrictions imposed by this section, the 33119
governor, select or standing committees of the general assembly, 33120
the auditor of state, the attorney general, or their designees, 33121
pursuant to the authority granted in this chapter and Chapter 33122
4121. of the Revised Code, may examine any records, claim files, 33123
or papers in possession of the industrial commission or the 33124
bureau. They also are bound by the privilege that attaches to 33125
these papers. 33126

The administrator shall report to the director of job and 33127
family services or to the county director of job and family 33128
services the name, address, and social security number or other 33129
identification number of any person receiving workers' 33130
compensation whose name or social security number or other 33131
identification number is the same as that of a person required by 33132
a court or child support enforcement agency to provide support 33133
payments to a recipient or participant of public assistance, and 33134
whose name is submitted to the administrator by the director under 33135
section 5101.36 of the Revised Code. The administrator also shall 33136
inform the director of the amount of workers' compensation paid to 33137
the person during such period as the director specifies. 33138

Within fourteen days after receiving from the director of job 33139
and family services a list of the names and social security 33140
numbers of recipients or participants of public assistance 33141
pursuant to section 5101.181 of the Revised Code, the 33142
administrator shall inform the auditor of state of the name, 33143
current or most recent address, and social security number of each 33144

person receiving workers' compensation pursuant to this chapter 33145
whose name and social security number are the same as that of a 33146
person whose name or social security number was submitted by the 33147
director. The administrator also shall inform the auditor of state 33148
of the amount of workers' compensation paid to the person during 33149
such period as the director specifies. 33150

The bureau and its employees, except for purposes of 33151
furnishing the auditor of state with information required by this 33152
section, shall preserve the confidentiality of recipients or 33153
participants of public assistance in compliance with division (A) 33154
of section 5101.181 of the Revised Code. 33155

For the purposes of this section, "public assistance" means 33156
medical assistance provided through the medical assistance program 33157
established under section 5111.01 of the Revised Code, Ohio works 33158
first provided under Chapter 5107. of the Revised Code, 33159
prevention, retention, and contingency benefits and services 33160
provided under Chapter 5108. of the Revised Code, ~~or~~ disability 33161
financial assistance provided under Chapter 5115. of the Revised 33162
Code, or disability medical assistance provided under Chapter 33163
5115. of the Revised Code. 33164

Sec. 4123.41. (A) By the first day of January of each year, 33165
the bureau of workers' compensation shall furnish to the county 33166
auditor of each county and the chief fiscal officer of each taxing 33167
district in a county and of each district activity and institution 33168
mentioned in section 4123.39 of the Revised Code forms containing 33169
the premium rates applicable to the county, district, district 33170
activity, or institution as an employer, on which to report the 33171
amount of money expended by the county, district, district 33172
activity, or institution during the previous twelve calendar 33173
months for the services of employees under this chapter. 33174

(B) Each county auditor and each fiscal officer of a 33175

district, district activity, and institution shall calculate on 33176
the form it receives from the bureau under division (A) of this 33177
section the premium due as its proper contribution to the public 33178
insurance fund and issue ~~his~~ a warrant in favor of the bureau for 33179
the amount due from the county, district, district activity, or 33180
institution to the public insurance fund according to the 33181
following schedule: 33182

(1) On or before the fifteenth day of May of each year, no 33183
less than forty-five per cent of the amount due; 33184

(2) On or before the first day of September of each year, no 33185
less than the total amount due. 33186

The legislative body of any county, district, district 33187
activity, or institution may reimburse the fund from which the 33188
contribution is made by transferring to the fund from any other 33189
fund of the county, district, district activity, or institution, 33190
the proportionate amount of the contribution that should be 33191
chargeable to the fund, whether the fund is derived from taxation 33192
or otherwise. The proportionate amount of the contribution 33193
chargeable to the fund may be based on payroll, relative exposure, 33194
relative loss experience, or any combination of these factors, as 33195
determined by the legislative body. A transfer made pursuant to 33196
division (B)(2) of this section is not subject to section 5705.16 33197
of the Revised Code. 33198

(C) The bureau may investigate the correctness of the 33199
information provided by the county auditor and chief fiscal 33200
officer under division (B) of this section, and if the bureau 33201
determines at any time that the county, district, district 33202
activity, or institution has not reported the correct information, 33203
the administrator of workers' compensation may make deductions or 33204
additions as the facts warrant and take those facts into 33205
consideration in determining the current or future contributions 33206
to be made by the county, district, district activity, or 33207

institution. If the county, district, district activity, or 33208
institution does not furnish the report in the time required by 33209
this section, the administrator may fix the amount of contribution 33210
the county, district, district activity, or institution must make 33211
and certify that amount for payment. 33212

(D) The administrator shall provide a discount to any county, 33213
district, district activity, or institution that pays its total 33214
amount due to the public insurance fund on or before the fifteenth 33215
day of May of each year as its proper contribution for premiums. 33216
The administrator shall base the discount provided under this 33217
division on the savings generated by the early payment to the 33218
public insurance fund. The administrator may provide the discount 33219
through a refund to the county, district, district activity, or 33220
institution or an offset against the future contributions due to 33221
the public insurance fund from the county, district, district 33222
activity, or institution. 33223

(E) The administrator may impose an interest penalty for late 33224
payment of any amount due from a county, district, district 33225
activity, and institution at the interest rate established by the 33226
state tax commissioner pursuant to section 5703.47 of the Revised 33227
Code. 33228

Sec. 4141.04. The director of job and family services shall 33229
maintain or ensure the existence of public employment offices that 33230
are free to the general public. These offices shall exist in such 33231
number and in such places as are necessary for the proper 33232
administration of this chapter, to perform such duties as are 33233
within the purview of the act of congress entitled "an act to 33234
provide for the establishment of a national employment system and 33235
for cooperation with the states in the promotion of such system, 33236
and for other purposes," approved June 6, 1933, as amended, which 33237
is known as the "Wagner-Peyser Act." The director shall cooperate 33238

with any official or agency of the United States having powers or 33239
duties under that act of congress and shall do and perform all 33240
things necessary to secure to this state the benefits of that act 33241
of congress in the promotion and maintenance of a system of public 33242
employment offices. That act of congress is hereby accepted by 33243
this state, in conformity with that act of congress and Title III 33244
of the "Social Security Act," and the "Federal Unemployment Tax 33245
Act," 26 U.S.C.A. 3301, as amended, and this state will observe 33246
and comply with the requirements thereof. The department of job 33247
and family services is hereby designated and constituted the 33248
agency of this state for the purposes of that act of congress. 33249

The director may cooperate with or enter into agreements with 33250
the railroad retirement board with respect to the establishment, 33251
maintenance, and use of employment service facilities that are 33252
free to the general public. 33253

All moneys received by this state under the act of congress 33254
known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the 33255
state treasury to the credit of the special employment service 33256
account in the ~~unemployment compensation administration~~ federal 33257
operating fund, which is hereby created. Those moneys are hereby 33258
made available to the director to be expended as provided by this 33259
section and by that act of congress. For the purpose of 33260
establishing and maintaining public employment offices that are 33261
free to the general public, the director may enter into agreements 33262
with the railroad retirement board or any other agency of the 33263
United States charged with the administration of an unemployment 33264
compensation law, with any political subdivision of this state, or 33265
with any private, nonprofit organization and as a part of any such 33266
agreement the director may accept moneys, services, or quarters as 33267
a contribution to the employment service account. 33268

The director shall maintain labor market information and 33269
employment statistics as necessary for the administration of this 33270

chapter. 33271

The director shall appoint an employee of the department to 33272
serve as an ex officio member of the governor's council to 33273
maintain a liaison between the department and the governor's 33274
council on people with disabilities. 33275

Sec. 4141.09. (A) There is hereby created an unemployment 33276
compensation fund to be administered by the state without 33277
liability on the part of the state beyond the amounts paid into 33278
the fund and earned by the fund. The unemployment compensation 33279
fund shall consist of all contributions, payments in lieu of 33280
contributions described in sections 4141.241 and 4141.242 of the 33281
Revised Code, reimbursements of the federal share of extended 33282
benefits described in section 4141.301 of the Revised Code, 33283
collected under sections 4141.01 to 4141.46 of the Revised Code, 33284
together with all interest earned upon any moneys deposited with 33285
the secretary of the treasury of the United States to the credit 33286
of the account of this state in the unemployment trust fund 33287
established and maintained pursuant to section 904 of the "Social 33288
Security Act," any property or securities acquired through the use 33289
of moneys belonging to the fund, and all earnings of such property 33290
or securities. The unemployment compensation fund shall be used to 33291
pay benefits and refunds as provided by such sections and for no 33292
other purpose. 33293

(B) The treasurer of state shall be the custodian of the 33294
unemployment compensation fund and shall administer such fund in 33295
accordance with the directions of the director of job and family 33296
services. All disbursements therefrom shall be paid by the 33297
treasurer of state on warrants drawn by the director. Such 33298
warrants may bear the facsimile signature of the director printed 33299
thereon and that of a deputy or other employee of the director 33300
charged with the duty of keeping the account of the unemployment 33301

compensation fund and with the preparation of warrants for the 33302
payment of benefits to the persons entitled thereto. Moneys in the 33303
clearing and benefit accounts shall not be commingled with other 33304
state funds, except as provided in division (C) of this section, 33305
but shall be maintained in separate accounts on the books of the 33306
depository bank. Such money shall be secured by the depository 33307
bank to the same extent and in the same manner as required by 33308
sections 135.01 to 135.21 of the Revised Code; and collateral 33309
pledged for this purpose shall be kept separate and distinct from 33310
any collateral pledged to secure other funds of this state. All 33311
sums recovered for losses sustained by the unemployment 33312
compensation fund shall be deposited therein. The treasurer of 33313
state shall be liable on the treasurer's official bond for the 33314
faithful performance of the treasurer's duties in connection with 33315
the unemployment compensation fund, such liability to exist in 33316
addition to any liability upon any separate bond. 33317

(C) The treasurer of state shall maintain within the 33318
unemployment compensation fund three separate accounts which shall 33319
be a clearing account, an unemployment trust fund account, and a 33320
benefit account. All moneys payable to the unemployment 33321
compensation fund, upon receipt thereof by the director, shall be 33322
forwarded to the treasurer of state, who shall immediately deposit 33323
them in the clearing account. Refunds of contributions, or 33324
payments in lieu of contributions, payable pursuant to division 33325
(E) of this section may be paid from the clearing account upon 33326
warrants signed by a deputy or other employee of the director 33327
charged with the duty of keeping the record of the clearing 33328
account and with the preparation of warrants for the payment of 33329
refunds to persons entitled thereto. After clearance thereof, all 33330
moneys in the clearing account shall be deposited with the 33331
secretary of the treasury of the United States to the credit of 33332
the account of this state in the unemployment trust fund 33333
established and maintained pursuant to section 904 of the "Social 33334

Security Act," in accordance with requirements of the "Federal 33335
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 33336
3304(a)(3), any law in this state relating to the deposit, 33337
administration, release, or disbursement of moneys in the 33338
possession or custody of this state to the contrary 33339
notwithstanding. The benefit account shall consist of all moneys 33340
requisitioned from this state's account in the unemployment trust 33341
fund. Federal funds, other than funds received by the director 33342
under divisions (I) and (J) of this section, received for payment 33343
of federal benefits may be deposited into the benefit account 33344
solely for payment of benefits under a federal program 33345
administered by this state. Moneys so requisitioned shall be used 33346
solely for the payment of benefits and for no other purpose. 33347
Moneys in the clearing and benefit accounts may be deposited by 33348
the treasurer of state, under the direction of the director, in 33349
any bank or public depository in which general funds of the state 33350
may be deposited, but no public deposit insurance charge or 33351
premium shall be paid out of the fund. 33352

(D) Moneys shall be requisitioned from this state's account 33353
in the unemployment trust fund solely for the payment of benefits 33354
and in accordance with regulations prescribed by the director. The 33355
director shall requisition from the unemployment trust fund such 33356
amounts, not exceeding the amount standing to this state's account 33357
therein, as are deemed necessary for the payment of benefits for a 33358
reasonable future period. Upon receipt thereof, the treasurer of 33359
state shall deposit such moneys in the benefit account. 33360
Expenditures of such money in the benefit account and refunds from 33361
the clearing account shall not require specific appropriations or 33362
other formal release by state officers of money in their custody. 33363
Any balance of moneys requisitioned from the unemployment trust 33364
fund which remains unclaimed or unpaid in the benefit account 33365
after the expiration of the period for which such sums were 33366
requisitioned shall either be deducted from estimates for and may 33367

be utilized for the payment of benefits during succeeding periods, 33368
or, in the discretion of the director, shall be redeposited with 33369
the secretary of the treasury of the United States to the credit 33370
of this state's account in the unemployment trust fund, as 33371
provided in division (C) of this section. Unclaimed or unpaid 33372
federal funds redeposited with the secretary of the treasury of 33373
the United States shall be credited to the appropriate federal 33374
account. 33375

(E) No claim for an adjustment or a refund on contribution, 33376
payment in lieu of contributions, interest, or forfeiture alleged 33377
to have been erroneously or illegally assessed or collected, or 33378
alleged to have been collected without authority, and no claim for 33379
an adjustment or a refund of any sum alleged to have been 33380
excessive or in any manner wrongfully collected shall be allowed 33381
unless an application, in writing, therefor is made within four 33382
years from the date on which such payment was made. If the 33383
director ~~determines~~ determines that such contribution, payment in 33384
lieu of contributions, ~~interest~~ interest, or forfeiture, or any 33385
portion ~~thereof~~ thereof, was erroneously collected, the director 33386
shall allow such employer to make an adjustment thereof without 33387
interest in connection with subsequent contribution payments, or 33388
payments in lieu of contributions, by the employer, or the 33389
director may refund said amount, without interest, from the 33390
clearing account of the unemployment compensation fund, except as 33391
provided in division (B) of section 4141.11 of the Revised Code. 33392
For like cause and within the same period, adjustment or refund 33393
may be so made on the director's own initiative. An overpayment of 33394
contribution, payment in lieu of contributions, interest, or 33395
forfeiture for which an employer has not made application for 33396
refund prior to the date of sale of the employer's business shall 33397
accrue to the employer's successor in interest. 33398

An application for an adjustment or a refund, or any portion 33399

thereof, that is rejected is binding upon the employer unless, 33400
within thirty days after the mailing of a written notice of 33401
rejection to the employer's last known address, or, in the absence 33402
of mailing of such notice, within thirty days after the delivery 33403
of such notice, the employer files an application for a review and 33404
redetermination setting forth the reasons therefor. The director 33405
shall promptly examine the application for review and 33406
redetermination, and if a review is granted, the employer shall be 33407
promptly notified thereof, and shall be granted an opportunity for 33408
a prompt hearing. 33409

(F) If the director finds that contributions have been paid 33410
to the director in error, and that such contributions should have 33411
been paid to a department of another state or of the United States 33412
charged with the administration of an unemployment compensation 33413
law, the director may upon request by such department or upon the 33414
director's own initiative transfer to such department the amount 33415
of such contributions, less any benefits paid to claimants whose 33416
wages were the basis for such contributions. The director may 33417
request and receive from such department any contributions or 33418
adjusted contributions paid in error to such department which 33419
should have been paid to the director. 33420

(G) In accordance with section 303(c)(3) of the Social 33421
Security Act, and section 3304(a)(17) of the Internal Revenue Code 33422
of 1954 for continuing certification of Ohio unemployment 33423
compensation laws for administrative grants and for tax credits, 33424
any interest required to be paid on advances under Title XII of 33425
the Social Security Act shall be paid in a timely manner and shall 33426
not be paid, directly or indirectly, by an equivalent reduction in 33427
the Ohio unemployment taxes or otherwise, by the state from 33428
amounts in the unemployment compensation fund. 33429

(H) The treasurer of state, under the direction of the 33430
director and in accordance with the "Cash Management Improvement 33431

Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit 33432
amounts of interest earned by the state on funds in the benefit 33433
account established pursuant to division (C) of this section into 33434
the department of job and family services banking fees fund, which 33435
is hereby created in the state treasury for the purpose of paying 33436
related banking costs incurred by the state for the period for 33437
which the interest is calculated, except that if the deposited 33438
interest exceeds the banking costs incurred by the state for the 33439
period for which the interest is calculated, the treasurer of 33440
state shall deposit the excess interest into the unemployment 33441
trust fund. 33442

(I) The treasurer of state, under the direction of the 33443
director, shall deposit federal funds received by the director for 33444
the payment of benefits, job search, relocation, transportation, 33445
and subsistence allowances pursuant to the "Trade Act of 1974," 88 33446
Stat. 1978, 19 U.S.C.A. 2101, as amended; ~~the~~ "North American 33447
Free Trade Implementation Act of 1993," 107 Stat. 2057, 19 33448
U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 33449
993, 19 U.S.C.A. 3801, as amended, into the Trade Act benefit 33450
account, which is hereby created for the purpose of ~~paying for~~ 33451
~~benefits, training, and support services~~ making payments specified 33452
under ~~that act~~ those acts. 33453

(J) The treasurer of state, under the direction of the 33454
director, shall deposit federal funds received by the director for 33455
training and administration pursuant to the "Trade Act of 1974," 33456
88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 33457
Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 33458
19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 33459
Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American~~ 33460
~~Free Trade Act~~ training and administration account, which is 33461
hereby created for the purpose of ~~paying for benefits, training,~~ 33462
~~and support services~~ making payments specified under ~~that act~~ 33463

those acts. 33464

Sec. 4301.03. The liquor control commission may adopt and 33465
promulgate, repeal, rescind, and amend, in the manner required by 33466
this section, rules, standards, requirements, and orders necessary 33467
to carry out this chapter and Chapter 4303. of the Revised Code, 33468
but all rules of the board of liquor control ~~which~~ that were in 33469
effect immediately prior to April 17, 1963, shall remain in full 33470
force and effect as rules of the liquor control commission until 33471
and unless amended or repealed by the liquor control commission. 33472
The rules of the commission may include the following: 33473

(A) Rules with reference to applications for and the issuance 33474
of permits for the manufacture, distribution, transportation, and 33475
sale of beer and intoxicating liquor, and the sale of alcohol; and 33476
rules governing the procedure of the division of liquor control in 33477
the suspension, revocation, and cancellation of those permits; 33478

(B) Rules and orders providing in detail for the conduct of 33479
any retail business authorized under permits issued pursuant to 33480
this chapter and Chapter 4303. of the Revised Code, with a view to 33481
ensuring compliance with those chapters and laws relative to them, 33482
and the maintenance of public decency, sobriety, and good order in 33483
any place licensed under the permits. No rule or order shall 33484
prohibit the sale of ~~lottery tickets issued~~ rights to participate
in lotteries pursuant to Chapter 3770. of the Revised Code by any 33485
retail business authorized under permits issued pursuant to that 33486
chapter. 33487
33488

No rule or order shall prohibit pari-mutuel wagering on 33489
simulcast horse races at a satellite facility that has been issued 33490
a D liquor permit under Chapter 4303. of the Revised Code. No rule 33491
or order shall prohibit a charitable organization that holds a D-4 33492
permit from selling or serving beer or intoxicating liquor under 33493
its permit in a portion of its premises merely because that 33494

portion of its premises is used at other times for the conduct of 33495
a charitable bingo game. However, such an organization shall not 33496
sell or serve beer or intoxicating liquor or permit beer or 33497
intoxicating liquor to be consumed or seen in the same location in 33498
its premises where a charitable bingo game is being conducted 33499
while the game is being conducted. As used in this division, 33500
"charitable organization" has the same meaning as in division (H) 33501
of section 2915.01 of the Revised Code, and "charitable bingo 33502
game" has the same meaning as in division (R) of that section. No 33503
rule or order pertaining to visibility into the premises of a 33504
permit holder after the legal hours of sale shall be adopted or 33505
maintained by the commission. 33506

(C) Standards, not in conflict with those prescribed by any 33507
law of this state or the United States, to secure the use of 33508
proper ingredients and methods in the manufacture of beer, mixed 33509
beverages, and wine to be sold within this state; 33510

(D) Rules determining the nature, form, and capacity of all 33511
packages and bottles to be used for containing beer or 33512
intoxicating liquor, except for spirituous liquor to be kept or 33513
sold, governing the form of all seals and labels to be used on 33514
those packages and bottles, and requiring the label on every 33515
package, bottle, and container to state the ingredients in the 33516
contents and, except on beer, the terms of weight, volume, or 33517
proof spirits, and whether the same is beer, wine, alcohol, or any 33518
intoxicating liquor except for spirituous liquor; 33519

(E) Uniform rules governing all advertising with reference to 33520
the sale of beer and intoxicating liquor throughout the state and 33521
advertising upon and in the premises licensed for the sale of beer 33522
or intoxicating liquor; 33523

(F) Rules restricting and placing conditions upon the 33524
transfer of permits; 33525

(G) Rules and orders limiting the number of permits of any class within the state or within any political subdivision of the state; and, for that purpose, adopting reasonable classifications of persons or establishments to which any authorized class of permits may be issued within any political subdivision;

(H) Rules and orders with reference to sales of beer and intoxicating liquor on Sundays and holidays and with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and rules with reference to the manner of sale;

(I) Rules requiring permit holders buying beer to pay and permit holders selling beer to collect minimum cash deposits for kegs, cases, bottles, or other returnable containers of the beer; requiring the repayment, or credit, of the minimum cash deposit charges upon the return of the empty containers; and requiring the posting of such form of indemnity or such other conditions with respect to the charging, collection, and repayment of minimum cash deposit charges for returnable containers of beer as are necessary to ensure the return of the empty containers or the repayment upon that return of the minimum cash deposits paid;

(J) Rules establishing the method by which alcohol products may be imported for sale by wholesale distributors and the method by which manufacturers and suppliers may sell alcohol products to wholesale distributors.

Every rule, standard, requirement, or order of the commission and every repeal, amendment, or rescission of them shall be posted for public inspection in the principal office of the commission and the principal office of the division of liquor control, and a certified copy of them shall be filed in the office of the secretary of state. An order applying only to persons named in it shall be served on the persons affected by personal delivery of a

certified copy, or by mailing a certified copy to each person 33557
affected by it or, in the case of a corporation, to any officer or 33558
agent of the corporation upon whom a service of summons may be 33559
served in a civil action. The posting and filing required by this 33560
section constitutes sufficient notice to all persons affected by 33561
such rule or order which is not required to be served. General 33562
rules of the commission promulgated pursuant to this section shall 33563
be published in the manner the commission determines. 33564

Sec. 4503.234. (A) As used in this section, "vehicle owner" 33565
means the person in whose name is registered a vehicle that is 33566
subject to an order of forfeiture issued under this section. 33567

(B) If a court is required by section 4503.233, 4503.236, 33568
4507.361, 4507.99, 4511.193, or 4511.99 of the Revised Code to 33569
order the criminal forfeiture of a vehicle, the order shall be 33570
issued and enforced in accordance with this division, subject to 33571
division (C) of this section and section 4503.235 of the Revised 33572
Code. An order of criminal forfeiture issued under this division 33573
shall authorize an appropriate law enforcement agency to seize the 33574
vehicle ordered criminally forfeited upon the terms and conditions 33575
that the court determines proper. No vehicle ordered criminally 33576
forfeited pursuant to this division shall be considered contraband 33577
for purposes of section 2933.41, 2933.42, or 2933.43 of the 33578
Revised Code, but shall be held by the law enforcement agency that 33579
employs the officer who seized it for disposal in accordance with 33580
this section. A forfeiture order may be issued only after the 33581
vehicle owner has been provided with an opportunity to be heard. 33582
The prosecuting attorney shall give the vehicle owner written 33583
notice of the possibility of forfeiture by sending a copy of the 33584
relevant uniform traffic ticket or other written notice to the 33585
vehicle owner not less than seven days prior to the date of 33586
issuance of the forfeiture order. A vehicle is subject to an order 33587
of criminal forfeiture pursuant to this division upon the 33588

conviction of the offender of or plea of guilty by the offender to 33589
a violation of division (A) of section 4503.236, division (B)(1) 33590
or (D)(2) of section 4507.02, section 4507.33, or division (A) of 33591
section 4511.19 of the Revised Code, or a municipal ordinance that 33592
is substantially equivalent to division (A) of section 4503.236, 33593
division (B)(1) or (D)(2) of section 4507.02, section 4507.33, or 33594
division (A) of section 4511.19 of the Revised Code. 33595

(C)(1) Prior to the issuance of an order of criminal 33596
forfeiture pursuant to division (B) of this section, the law 33597
enforcement agency that employs the law enforcement officer who 33598
seized the vehicle shall conduct or cause to be conducted a search 33599
of the appropriate public records that relate to the vehicle and 33600
shall make or cause to be made reasonably diligent inquiries to 33601
identify any lienholder or any person or entity with an ownership 33602
interest in the vehicle. The court that is to issue the forfeiture 33603
order also shall cause a notice of the potential order relative to 33604
the vehicle and of the expected manner of disposition of the 33605
vehicle after its forfeiture to be sent to any lienholder or 33606
person who is known to the court to have any right, title, or 33607
interest in the vehicle. The court shall give the notice by 33608
certified mail, return receipt requested, or by personal service. 33609

(2) No order of criminal forfeiture shall be issued pursuant 33610
to division (B) of this section if a lienholder or other person 33611
with an ownership interest in the vehicle establishes to the 33612
court, by a preponderance of the evidence after filing a motion 33613
with the court, that the lienholder or other ~~that~~ person neither 33614
knew nor should have known after a reasonable inquiry that the 33615
vehicle would be used or involved, or likely would be used or 33616
involved, in the violation resulting in the issuance of the order 33617
of criminal forfeiture or the violation of the order of 33618
immobilization issued under section 4503.233 of the Revised Code, 33619
that the lienholder or other ~~that~~ person did not expressly or 33620

impliedly consent to the use or involvement of the vehicle in that 33621
violation, and that the lien or ownership interest was perfected 33622
pursuant to law prior to the seizure of the vehicle under section 33623
4503.236, 4507.38, or 4511.195 of the Revised Code. If the 33624
lienholder or holder of the ownership interest satisfies the court 33625
that these criteria have been met, the court shall preserve ~~the~~ 33626
~~holder's~~ the lienholder's or other person's lien or interest, and 33627
the court either shall return the vehicle to the holder, ~~the~~ 33628
~~holder's~~ or shall order that the ~~the holder's~~ proceeds of any sale 33629
held pursuant to division (D) of this section be paid to the 33630
lienholder or holder of the interest less the costs of seizure, 33631
storage, and maintenance of the vehicle. The court shall not 33632
return a vehicle to a lienholder or a holder of an ownership 33633
interest under division (C)(2) of this section unless the 33634
lienholder or holder submits an affidavit to the court that states 33635
that the lienholder or holder will not return the vehicle to the 33636
person from whom the vehicle was seized pursuant to the order of 33637
criminal forfeiture or to any member of that person's family and 33638
will not otherwise knowingly permit that person or any member of 33639
that person's family to obtain possession of the vehicle. 33640

(3) No order of criminal forfeiture shall be issued pursuant 33641
to division (B) of this section if a person with an interest in 33642
the vehicle establishes to the court, by a preponderance of the 33643
evidence after filing a motion with the court, that the person 33644
neither knew nor should have known after a reasonable inquiry that 33645
the vehicle had been used or was involved in the violation 33646
resulting in the issuance of the order of criminal forfeiture or 33647
the violation of the order of immobilization issued under section 33648
4503.233 of the Revised Code, that the person did not expressly or 33649
impliedly consent to the use or involvement of the vehicle in that 33650
violation, that the interest was perfected in good faith and for 33651
value pursuant to law between the time of the arrest of the 33652
offender and the final disposition of the criminal charge in 33653

question, and that the vehicle was in the possession of the 33654
vehicle owner at the time of the perfection of the interest. If 33655
the court is satisfied that the interest holder has met these 33656
criteria, the court shall preserve ~~the holder's~~ the interest 33657
holder's interest, and the court either shall return the vehicle 33658
to the interest holder ~~the holder's~~ or order that the ~~the holder's~~ 33659
proceeds of any sale held pursuant to division (D) of this section 33660
be paid to the holder of the interest less the costs of seizure, 33661
storage, and maintenance of the vehicle. The court shall not 33662
return a vehicle to an interest holder under division (C)(3) of 33663
this section unless the holder submits an affidavit to the court 33664
stating that the holder will not return the vehicle to the person 33665
from whom the holder acquired ~~the holder's~~ the holder's interest, 33666
nor to any member of that person's family, and the holder will not 33667
otherwise knowingly permit that person or any member of that 33668
person's family to obtain possession of the vehicle. 33669

(D) A vehicle ordered criminally forfeited to the state 33670
pursuant to division (B) of this section shall be disposed of as 33671
follows: 33672

(1) It shall be given to the law enforcement agency that 33673
employs the law enforcement officer who seized the vehicle, if 33674
that agency desires to have it; 33675

(2) If a vehicle is not disposed of pursuant to division 33676
(D)(1) of this section, the vehicle shall be sold, without 33677
appraisal, if the value of the vehicle is two thousand dollars or 33678
more as determined by publications of the national auto dealer's 33679
association, at a public auction to the highest bidder for cash. 33680
Prior to the sale, the prosecuting attorney in the case shall 33681
cause a notice of the proposed sale to be given in accordance with 33682
law. The court shall cause notice of the sale of the vehicle to be 33683
published in a newspaper of general circulation in the county in 33684
which the court is located at least seven days prior to the date 33685

of the sale. The proceeds of a sale under this division or 33686
division (G) of this section shall be applied in the following 33687
order: 33688

(a) First, they shall be applied to the payment of the costs 33689
incurred in connection with the seizure, storage, and maintenance 33690
of, and provision of security for, the vehicle, any proceeding 33691
arising out of the forfeiture, and if any, the sale. 33692

(b) Second, the remaining proceeds after compliance with 33693
division (D)(2)(a) of this section, shall be applied to the 33694
payment of the value of any lien or ownership interest in the 33695
vehicle preserved under division (C) of this section. 33696

(c) Third, the remaining proceeds, after compliance with 33697
divisions (D)(2)(a) and (b) of this section, shall be applied to 33698
the appropriate funds in accordance with divisions (D)(1)(c) and 33699
(2) of section 2933.43 of the Revised Code, provided that the 33700
total of the amount so deposited under this division shall not 33701
exceed one thousand dollars. The remaining proceeds deposited 33702
under this division shall be used only for the purposes authorized 33703
by those divisions and division (D)(3)(a)(ii) of that section. 33704

(d) Fourth, the remaining proceeds after compliance with 33705
divisions (D)(2)(a) and (b) of this section and after deposit of a 33706
total amount of one thousand dollars under division (D)(2)(c) of 33707
this section shall be applied so that ~~fifty~~ seventy-five per cent 33708
of those remaining proceeds is paid into the reparation fund 33709
established by section 2743.191 of the Revised Code, ~~twenty-five~~ 33710
~~per cent is paid into the drug abuse resistance education programs~~ 33711
~~fund created by division (L)(2)(c) of section 4511.191 of the~~ 33712
~~Revised Code and shall be used only for the purposes authorized by~~ 33713
~~division (L)(2)(c) of that section,~~ and twenty-five per cent is 33714
applied to the appropriate funds in accordance with division 33715
(D)(1)(c) of section 2933.43 of the Revised Code. The proceeds 33716
deposited into any fund described in section 2933.43 of the 33717

Revised Code shall be used only for the purposes authorized by 33718
division (D)(1)(c), (2), and (3)(a)(ii) of that section. 33719

(E) Notwithstanding any other provision of law, neither the 33720
registrar of motor vehicles nor any deputy registrar shall accept 33721
an application for the registration of any motor vehicle in the 33722
name of any person, or register any motor vehicle in the name of 33723
any person, if both of the following apply: 33724

(1) Any vehicle registered in the person's name was 33725
criminally forfeited under division (B) of this section and 33726
section 4503.233, 4503.236, 4507.361, 4507.99, 4511.193, or 33727
4511.99 of the Revised Code; 33728

(2) Less than five years have expired since the issuance of 33729
the most recent order of criminal forfeiture issued in relation to 33730
a vehicle registered in the person's name. 33731

(F) If a court is required by section 4503.233, 4507.361, 33732
4507.99, 4511.193, or 4511.99 of the Revised Code to order the 33733
criminal forfeiture to the state of a vehicle, and the title to 33734
the motor vehicle is assigned or transferred, and division (C)(2) 33735
or (3) of this section applies, in addition to or independent of 33736
any other penalty established by law, the court may fine the 33737
offender the value of the vehicle as determined by publications of 33738
the national auto dealer's association. The proceeds from any fine 33739
imposed under division (F) of this section shall be distributed in 33740
accordance with division (D)(4) of this section. 33741

(G) As used in division (D) of this section and divisions 33742
(D)(1)(c), (2), and (D)(3)(a)(ii) of section 2933.43 of the 33743
Revised Code in relation to proceeds of the sale of a vehicle 33744
under division (D) of this section, "prosecuting attorney" 33745
includes the prosecuting attorney, village solicitor, city 33746
director of law, or similar chief legal officer of a municipal 33747
corporation who prosecutes the case resulting in the conviction or 33748

guilty plea in question. 33749

~~(G)~~(H) If the vehicle to be forfeited has an average retail 33750
value of less than two thousand dollars as determined by 33751
publications of the national auto dealer's association, no public 33752
auction is required to be held. In such a case, the court may 33753
direct that the vehicle be disposed of in any manner that it 33754
considers appropriate, including assignment of the certificate of 33755
title to the motor vehicle to a salvage dealer or a scrap metal 33756
processing facility. The court shall not transfer the vehicle to 33757
the person who is the vehicle's immediate previous owner. 33758

If the court assigns the motor vehicle to a salvage dealer or 33759
scrap metal processing facility and the court is in possession of 33760
the certificate of title to the motor vehicle, it shall send the 33761
assigned certificate of title to the motor vehicle to the clerk of 33762
the court of common pleas of the county in which the salvage 33763
dealer or scrap metal processing facility is located. The court 33764
shall mark the face of the certificate of title with the words 33765
"FOR DESTRUCTION" and shall deliver a photocopy of the certificate 33766
of title to the salvage dealer or scrap metal processing facility 33767
for its records. 33768

If the court is not in possession of the certificate of title 33769
to the motor vehicle, the court shall issue an order transferring 33770
ownership of the motor vehicle to a salvage dealer or scrap metal 33771
processing facility, send the order to the clerk of the court of 33772
common pleas of the county in which the salvage dealer or scrap 33773
metal processing facility is located, and send a photocopy of the 33774
order to the salvage dealer or scrap metal processing facility for 33775
its records. The clerk shall make the proper notations or entries 33776
in the clerk's records concerning the disposition of the motor 33777
vehicle. 33778

Sec. 4511.191. (A) Any person who operates a vehicle upon a 33779

highway or any public or private property used by the public for 33780
vehicular travel or parking within this state shall be deemed to 33781
have given consent to a chemical test or tests of the person's 33782
blood, breath, or urine for the purpose of determining the 33783
alcohol, drug, or alcohol and drug content of the person's blood, 33784
breath, or urine if arrested for operating a vehicle while under 33785
the influence of alcohol, a drug of abuse, or alcohol and a drug 33786
of abuse or for operating a vehicle with a prohibited 33787
concentration of alcohol in the blood, breath, or urine. The 33788
chemical test or tests shall be administered at the request of a 33789
police officer having reasonable grounds to believe the person to 33790
have been operating a vehicle upon a highway or any public or 33791
private property used by the public for vehicular travel or 33792
parking in this state while under the influence of alcohol, a drug 33793
of abuse, or alcohol and a drug of abuse or with a prohibited 33794
concentration of alcohol in the blood, breath, or urine. The law 33795
enforcement agency by which the officer is employed shall 33796
designate which of the tests shall be administered. 33797

(B) Any person who is dead or unconscious, or who is 33798
otherwise in a condition rendering the person incapable of 33799
refusal, shall be deemed not to have withdrawn consent as provided 33800
by division (A) of this section and the test or tests may be 33801
administered, subject to sections 313.12 to 313.16 of the Revised 33802
Code. 33803

(C)(1) Any person under arrest for operating a vehicle while 33804
under the influence of alcohol, a drug of abuse, or alcohol and a 33805
drug of abuse or for operating a vehicle with a prohibited 33806
concentration of alcohol in the blood, breath, or urine shall be 33807
advised at a police station, or at a hospital, first-aid station, 33808
or clinic to which the person has been taken for first-aid or 33809
medical treatment, of both of the following: 33810

(a) The consequences, as specified in division (E) of this 33811

section, of the person's refusal to submit upon request to a 33812
chemical test designated by the law enforcement agency as provided 33813
in division (A) of this section; 33814

(b) The consequences, as specified in division (F) of this 33815
section, of the person's submission to the designated chemical 33816
test if the person is found to have a prohibited concentration of 33817
alcohol in the blood, breath, or urine. 33818

(2)(a) The advice given pursuant to division (C)(1) of this 33819
section shall be in a written form containing the information 33820
described in division (C)(2)(b) of this section and shall be read 33821
to the person. The form shall contain a statement that the form 33822
was shown to the person under arrest and read to the person in the 33823
presence of the arresting officer and either another police 33824
officer, a civilian police employee, or an employee of a hospital, 33825
first-aid station, or clinic, if any, to which the person has been 33826
taken for first-aid or medical treatment. The witnesses shall 33827
certify to this fact by signing the form. 33828

(b) The form required by division (C)(2)(a) of this section 33829
shall read as follows: 33830

"You now are under arrest for operating a vehicle while under 33831
the influence of alcohol, a drug of abuse, or both alcohol and a 33832
drug of abuse and will be requested by a police officer to submit 33833
to a chemical test to determine the concentration of alcohol, 33834
drugs of abuse, or alcohol and drugs of abuse in your blood, 33835
breath, or urine. 33836

If you refuse to submit to the requested test or if you 33837
submit to the requested test and are found to have a prohibited 33838
concentration of alcohol in your blood, breath, or urine, your 33839
driver's or commercial driver's license or permit or nonresident 33840
operating privilege immediately will be suspended for the period 33841
of time specified by law by the officer, on behalf of the 33842

registrar of motor vehicles. You may appeal this suspension at 33843
your initial appearance before the court that hears the charges 33844
against you resulting from the arrest, and your initial appearance 33845
will be conducted no later than five days after the arrest. This 33846
suspension is independent of the penalties for the offense, and 33847
you may be subject to other penalties upon conviction." 33848

(D)(1) If a person under arrest as described in division 33849
(C)(1) of this section is not asked by a police officer to submit 33850
to a chemical test designated as provided in division (A) of this 33851
section, the arresting officer shall seize the Ohio or 33852
out-of-state driver's or commercial driver's license or permit of 33853
the person and immediately forward the seized license or permit to 33854
the court in which the arrested person is to appear on the charge 33855
for which the person was arrested. If the arrested person does not 33856
have the person's driver's or commercial driver's license or 33857
permit on the person's self or in the person's vehicle, the 33858
arresting officer shall order the arrested person to surrender it 33859
to the law enforcement agency that employs the officer within 33860
twenty-four hours after the arrest, and, upon the surrender, the 33861
officer's employing agency immediately shall forward the license 33862
or permit to the court in which the arrested person is to appear 33863
on the charge for which the person was arrested. Upon receipt of 33864
the license or permit, the court shall retain it pending the 33865
initial appearance of the arrested person and any action taken 33866
under section 4511.196 of the Revised Code. 33867

If a person under arrest as described in division (C)(1) of 33868
this section is asked by a police officer to submit to a chemical 33869
test designated as provided in division (A) of this section and is 33870
advised of the consequences of the person's refusal or submission 33871
as provided in division (C) of this section and if the person 33872
either refuses to submit to the designated chemical test or the 33873
person submits to the designated chemical test and the test 33874

results indicate that the person's blood contained a concentration 33875
of ten-hundredths of one per cent or more by weight of alcohol, 33876
the person's breath contained a concentration of ten-hundredths of 33877
one gram or more by weight of alcohol per two hundred ten liters 33878
of the person's breath, or the person's urine contained a 33879
concentration of fourteen-hundredths of one gram or more by weight 33880
of alcohol per one hundred milliliters of the person's urine at 33881
the time of the alleged offense, the arresting officer shall do 33882
all of the following: 33883

(a) On behalf of the registrar, serve a notice of suspension 33884
upon the person that advises the person that, independent of any 33885
penalties or sanctions imposed upon the person pursuant to any 33886
other section of the Revised Code or any other municipal 33887
ordinance, the person's driver's or commercial driver's license or 33888
permit or nonresident operating privilege is suspended, that the 33889
suspension takes effect immediately, that the suspension will last 33890
at least until the person's initial appearance on the charge that 33891
will be held within five days after the date of the person's 33892
arrest or the issuance of a citation to the person, and that the 33893
person may appeal the suspension at the initial appearance; seize 33894
the Ohio or out-of-state driver's or commercial driver's license 33895
or permit of the person; and immediately forward the seized 33896
license or permit to the registrar. If the arrested person does 33897
not have the person's driver's or commercial driver's license or 33898
permit on the person's self or in the person's vehicle, the 33899
arresting officer shall order the person to surrender it to the 33900
law enforcement agency that employs the officer within twenty-four 33901
hours after the service of the notice of suspension, and, upon the 33902
surrender, the officer's employing agency immediately shall 33903
forward the license or permit to the registrar. 33904

(b) Verify the current residence of the person and, if it 33905
differs from that on the person's driver's or commercial driver's 33906

license or permit, notify the registrar of the change; 33907

(c) In addition to forwarding the arrested person's driver's 33908
or commercial driver's license or permit to the registrar, send to 33909
the registrar, within forty-eight hours after the arrest of the 33910
person, a sworn report that includes all of the following 33911
statements: 33912

(i) That the officer had reasonable grounds to believe that, 33913
at the time of the arrest, the arrested person was operating a 33914
vehicle upon a highway or public or private property used by the 33915
public for vehicular travel or parking within this state while 33916
under the influence of alcohol, a drug of abuse, or alcohol and a 33917
drug of abuse or with a prohibited concentration of alcohol in the 33918
blood, breath, or urine; 33919

(ii) That the person was arrested and charged with operating 33920
a vehicle while under the influence of alcohol, a drug of abuse, 33921
or alcohol and a drug of abuse or with operating a vehicle with a 33922
prohibited concentration of alcohol in the blood, breath, or 33923
urine; 33924

(iii) That the officer asked the person to take the 33925
designated chemical test, advised the person of the consequences 33926
of submitting to the chemical test or refusing to take the 33927
chemical test, and gave the person the form described in division 33928
(C)(2) of this section; 33929

(iv) That the person refused to submit to the chemical test 33930
or that the person submitted to the chemical test and the test 33931
results indicate that the person's blood contained a concentration 33932
of ten-hundredths of one per cent or more by weight of alcohol, 33933
the person's breath contained a concentration of ten-hundredths of 33934
one gram or more by weight of alcohol per two hundred ten liters 33935
of the person's breath, or the person's urine contained a 33936
concentration of fourteen-hundredths of one gram or more by weight 33937

of alcohol per one hundred milliliters of the person's urine at 33938
the time of the alleged offense; 33939

(v) That the officer served a notice of suspension upon the 33940
person as described in division (D)(1)(a) of this section. 33941

(2) The sworn report of an arresting officer completed under 33942
division (D)(1)(c) of this section shall be given by the officer 33943
to the arrested person at the time of the arrest or sent to the 33944
person by regular first class mail by the registrar as soon 33945
thereafter as possible, but no later than fourteen days after 33946
receipt of the report. An arresting officer may give an unsworn 33947
report to the arrested person at the time of the arrest provided 33948
the report is complete when given to the arrested person and 33949
subsequently is sworn to by the arresting officer. As soon as 33950
possible, but no later than forty-eight hours after the arrest of 33951
the person, the arresting officer shall send a copy of the sworn 33952
report to the court in which the arrested person is to appear on 33953
the charge for which the person was arrested. 33954

(3) The sworn report of an arresting officer completed and 33955
sent to the registrar and the court under divisions (D)(1)(c) and 33956
(D)(2) of this section is prima-facie proof of the information and 33957
statements that it contains and shall be admitted and considered 33958
as prima-facie proof of the information and statements that it 33959
contains in any appeal under division (H) of this section relative 33960
to any suspension of a person's driver's or commercial driver's 33961
license or permit or nonresident operating privilege that results 33962
from the arrest covered by the report. 33963

(E)(1) Upon receipt of the sworn report of an arresting 33964
officer completed and sent to the registrar and a court pursuant 33965
to divisions (D)(1)(c) and (D)(2) of this section in regard to a 33966
person who refused to take the designated chemical test, the 33967
registrar shall enter into the registrar's records the fact that 33968
the person's driver's or commercial driver's license or permit or 33969

nonresident operating privilege was suspended by the arresting 33970
officer under division (D)(1)(a) of this section and the period of 33971
the suspension, as determined under divisions (E)(1)(a) to (d) of 33972
this section. The suspension shall be subject to appeal as 33973
provided in this section and shall be for whichever of the 33974
following periods applies: 33975

(a) If the arrested person, within five years of the date on 33976
which the person refused the request to consent to the chemical 33977
test, had not refused a previous request to consent to a chemical 33978
test of the person's blood, breath, or urine to determine its 33979
alcohol content, the period of suspension shall be one year. If 33980
the person is a resident without a license or permit to operate a 33981
vehicle within this state, the registrar shall deny to the person 33982
the issuance of a driver's or commercial driver's license or 33983
permit for a period of one year after the date of the alleged 33984
violation. 33985

(b) If the arrested person, within five years of the date on 33986
which the person refused the request to consent to the chemical 33987
test, had refused one previous request to consent to a chemical 33988
test of the person's blood, breath, or urine to determine its 33989
alcohol content, the period of suspension or denial shall be two 33990
years. 33991

(c) If the arrested person, within five years of the date on 33992
which the person refused the request to consent to the chemical 33993
test, had refused two previous requests to consent to a chemical 33994
test of the person's blood, breath, or urine to determine its 33995
alcohol content, the period of suspension or denial shall be three 33996
years. 33997

(d) If the arrested person, within five years of the date on 33998
which the person refused the request to consent to the chemical 33999
test, had refused three or more previous requests to consent to a 34000
chemical test of the person's blood, breath, or urine to determine 34001

its alcohol content, the period of suspension or denial shall be 34002
five years. 34003

(2) The suspension or denial imposed under division (E)(1) of 34004
this section shall continue for the entire one-year, two-year, 34005
three-year, or five-year period, subject to appeal as provided in 34006
this section and subject to termination as provided in division 34007
(K) of this section. 34008

(F) Upon receipt of the sworn report of an arresting officer 34009
completed and sent to the registrar and a court pursuant to 34010
divisions (D)(1)(c) and (D)(2) of this section in regard to a 34011
person whose test results indicate that the person's blood 34012
contained a concentration of ten-hundredths of one per cent or 34013
more by weight of alcohol, the person's breath contained a 34014
concentration of ten-hundredths of one gram or more by weight of 34015
alcohol per two hundred ten liters of the person's breath, or the 34016
person's urine contained a concentration of fourteen-hundredths of 34017
one gram or more by weight of alcohol per one hundred milliliters 34018
of the person's urine at the time of the alleged offense, the 34019
registrar shall enter into the registrar's records the fact that 34020
the person's driver's or commercial driver's license or permit or 34021
nonresident operating privilege was suspended by the arresting 34022
officer under division (D)(1)(a) of this section and the period of 34023
the suspension, as determined under divisions (F)(1) to (4) of 34024
this section. The suspension shall be subject to appeal as 34025
provided in this section and shall be for whichever of the 34026
following periods that applies: 34027

(1) Except when division (F)(2), (3), or (4) of this section 34028
applies and specifies a different period of suspension or denial, 34029
the period of the suspension or denial shall be ninety days. 34030

(2) The period of suspension or denial shall be one year if 34031
the person has been convicted, within six years of the date the 34032
test was conducted, of a violation of one of the following: 34033

(a) Division (A) or (B) of section 4511.19 of the Revised Code;	34034 34035
(b) A municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;	34036 34037 34038
(c) A municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;	34039 34040 34041
(d) Section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section;	34042 34043 34044
(e) Division (A)(1) of section 2903.06 or division (A)(1) of section 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to either of those divisions;	34045 34046 34047
(f) Division (A)(2), (3), or (4) of section 2903.06, division (A)(2) of section 2903.08, or former section 2903.07 of the Revised Code, or a municipal ordinance that is substantially similar to any of those divisions or that former section, in a case in which the jury or judge found that at the time of the commission of the offense the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;	34048 34049 34050 34051 34052 34053 34054
(g) A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code.	34055 34056 34057 34058
(3) If the person has been convicted, within six years of the date the test was conducted, of two violations of a statute or ordinance described in division (F)(2) of this section, the period of the suspension or denial shall be two years.	34059 34060 34061 34062
(4) If the person has been convicted, within six years of the	34063

date the test was conducted, of more than two violations of a 34064
statute or ordinance described in division (F)(2) of this section, 34065
the period of the suspension or denial shall be three years. 34066

(G)(1) A suspension of a person's driver's or commercial 34067
driver's license or permit or nonresident operating privilege 34068
under division (D)(1)(a) of this section for the period of time 34069
described in division (E) or (F) of this section is effective 34070
immediately from the time at which the arresting officer serves 34071
the notice of suspension upon the arrested person. Any subsequent 34072
finding that the person is not guilty of the charge that resulted 34073
in the person being requested to take, or in the person taking, 34074
the chemical test or tests under division (A) of this section 34075
affects the suspension only as described in division (H)(2) of 34076
this section. 34077

(2) If a person is arrested for operating a vehicle while 34078
under the influence of alcohol, a drug of abuse, or alcohol and a 34079
drug of abuse or for operating a vehicle with a prohibited 34080
concentration of alcohol in the blood, breath, or urine and 34081
regardless of whether the person's driver's or commercial driver's 34082
license or permit or nonresident operating privilege is or is not 34083
suspended under division (E) or (F) of this section, the person's 34084
initial appearance on the charge resulting from the arrest shall 34085
be held within five days of the person's arrest or the issuance of 34086
the citation to the person, subject to any continuance granted by 34087
the court pursuant to division (H)(1) of this section regarding 34088
the issues specified in that division. 34089

(H)(1) If a person is arrested for operating a vehicle while 34090
under the influence of alcohol, a drug of abuse, or alcohol and a 34091
drug of abuse or for operating a vehicle with a prohibited 34092
concentration of alcohol in the blood, breath, or urine and if the 34093
person's driver's or commercial driver's license or permit or 34094
nonresident operating privilege is suspended under division (E) or 34095

(F) of this section, the person may appeal the suspension at the person's initial appearance on the charge resulting from the arrest in the court in which the person will appear on that charge. If the person appeals the suspension at the person's initial appearance, the appeal does not stay the operation of the suspension. Subject to division (H)(2) of this section, no court has jurisdiction to grant a stay of a suspension imposed under division (E) or (F) of this section, and any order issued by any court that purports to grant a stay of any suspension imposed under either of those divisions shall not be given administrative effect.

If the person appeals the suspension at the person's initial appearance, either the person or the registrar may request a continuance of the appeal. Either the person or the registrar shall make the request for a continuance of the appeal at the same time as the making of the appeal. If either the person or the registrar requests a continuance of the appeal, the court may grant the continuance. The court also may continue the appeal on its own motion. The granting of a continuance applies only to the conduct of the appeal of the suspension and does not extend the time within which the initial appearance must be conducted, and the court shall proceed with all other aspects of the initial appearance in accordance with its normal procedures. Neither the request for nor the granting of a continuance stays the operation of the suspension that is the subject of the appeal.

If the person appeals the suspension at the person's initial appearance, the scope of the appeal is limited to determining whether one or more of the following conditions have not been met:

(a) Whether the law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the

influence of alcohol, a drug of abuse, or alcohol and a drug of 34128
abuse or with a prohibited concentration of alcohol in the blood, 34129
breath, or urine and whether the arrested person was in fact 34130
placed under arrest; 34131

(b) Whether the law enforcement officer requested the 34132
arrested person to submit to the chemical test designated pursuant 34133
to division (A) of this section; 34134

(c) Whether the arresting officer informed the arrested 34135
person of the consequences of refusing to be tested or of 34136
submitting to the test; 34137

(d) Whichever of the following is applicable: 34138

(i) Whether the arrested person refused to submit to the 34139
chemical test requested by the officer; 34140

(ii) Whether the chemical test results indicate that the 34141
arrested person's blood contained a concentration of 34142
ten-hundredths of one per cent or more by weight of alcohol, the 34143
person's breath contained a concentration of ten-hundredths of one 34144
gram or more by weight of alcohol per two hundred ten liters of 34145
the person's breath, or the person's urine contained a 34146
concentration of fourteen-hundredths of one gram or more by weight 34147
of alcohol per one hundred milliliters of the person's urine at 34148
the time of the alleged offense. 34149

(2) If the person appeals the suspension at the initial 34150
appearance, the judge or referee of the court or the mayor of the 34151
mayor's court shall determine whether one or more of the 34152
conditions specified in divisions (H)(1)(a) to (d) of this section 34153
have not been met. The person who appeals the suspension has the 34154
burden of proving, by a preponderance of the evidence, that one or 34155
more of the specified conditions has not been met. If during the 34156
appeal at the initial appearance the judge or referee of the court 34157
or the mayor of the mayor's court determines that all of those 34158

conditions have been met, the judge, referee, or mayor shall 34159
uphold the suspension, shall continue the suspension, and shall 34160
notify the registrar of the decision on a form approved by the 34161
registrar. Except as otherwise provided in division (H)(2) of this 34162
section, if the suspension is upheld or if the person does not 34163
appeal the suspension at the person's initial appearance under 34164
division (H)(1) of this section, the suspension shall continue 34165
until the complaint alleging the violation for which the person 34166
was arrested and in relation to which the suspension was imposed 34167
is adjudicated on the merits by the judge or referee of the trial 34168
court or by the mayor of the mayor's court. If the suspension was 34169
imposed under division (E) of this section and it is continued 34170
under this division, any subsequent finding that the person is not 34171
guilty of the charge that resulted in the person being requested 34172
to take the chemical test or tests under division (A) of this 34173
section does not terminate or otherwise affect the suspension. If 34174
the suspension was imposed under division (F) of this section and 34175
it is continued under this division, the suspension shall 34176
terminate if, for any reason, the person subsequently is found not 34177
guilty of the charge that resulted in the person taking the 34178
chemical test or tests under division (A) of this section. 34179

If, during the appeal at the initial appearance, the judge or 34180
referee of the trial court or the mayor of the mayor's court 34181
determines that one or more of the conditions specified in 34182
divisions (H)(1)(a) to (d) of this section have not been met, the 34183
judge, referee, or mayor shall terminate the suspension, subject 34184
to the imposition of a new suspension under division (B) of 34185
section 4511.196 of the Revised Code; shall notify the registrar 34186
of the decision on a form approved by the registrar; and, except 34187
as provided in division (B) of section 4511.196 of the Revised 34188
Code, shall order the registrar to return the driver's or 34189
commercial driver's license or permit to the person or to take 34190
such measures as may be necessary, if the license or permit was 34191

destroyed under section 4507.55 of the Revised Code, to permit the 34192
person to obtain a replacement driver's or commercial driver's 34193
license or permit from the registrar or a deputy registrar in 34194
accordance with that section. The court also shall issue to the 34195
person a court order, valid for not more than ten days from the 34196
date of issuance, granting the person operating privileges for 34197
that period of time. 34198

If the person appeals the suspension at the initial 34199
appearance, the registrar shall be represented by the prosecuting 34200
attorney of the county in which the arrest occurred if the initial 34201
appearance is conducted in a juvenile court or county court, 34202
except that if the arrest occurred within a city or village within 34203
the jurisdiction of the county court in which the appeal is 34204
conducted, the city director of law or village solicitor of that 34205
city or village shall represent the registrar. If the appeal is 34206
conducted in a municipal court, the registrar shall be represented 34207
as provided in section 1901.34 of the Revised Code. If the appeal 34208
is conducted in a mayor's court, the registrar shall be 34209
represented by the city director of law, village solicitor, or 34210
other chief legal officer of the municipal corporation that 34211
operates that mayor's court. 34212

(I)(1)(a) A person is not entitled to request, and a court 34213
shall not grant to the person, occupational driving privileges 34214
under division (I)(1) of this section if a person's driver's or 34215
commercial driver's license or permit or nonresident operating 34216
privilege has been suspended pursuant to division (E) of this 34217
section, and the person, within the preceding seven years, has 34218
refused three previous requests to consent to a chemical test of 34219
the person's blood, breath, or urine to determine its alcohol 34220
content or has been convicted of or pleaded guilty to three or 34221
more violations of one or more of the following: 34222

(i) Division (A) or (B) of section 4511.19 of the Revised 34223

Code;	34224
(ii) A municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;	34225 34226 34227
(iii) A municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;	34228 34229 34230
(iv) Section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section;	34231 34232 34233
(v) Division (A)(1) of section 2903.06 or division (A)(1) of section 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to either of those divisions;	34234 34235 34236
(vi) Division (A)(2), (3), or (4) of section 2903.06, division (A)(2) of section 2903.08, or former section 2903.07 of the Revised Code, or a municipal ordinance that is substantially similar to any of those divisions or that former section, in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;	34237 34238 34239 34240 34241 34242 34243
(vii) A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code.	34244 34245 34246 34247
(b) Any other person who is not described in division (I)(1)(a) of this section and whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (E) of this section may file a petition requesting occupational driving privileges in the common pleas court, municipal court, county court, mayor's court, or, if the person is a minor, juvenile court with jurisdiction over the	34248 34249 34250 34251 34252 34253 34254

related criminal or delinquency case. The petition may be filed at 34255
any time subsequent to the date on which the notice of suspension 34256
is served upon the arrested person. The person shall pay the costs 34257
of the proceeding, notify the registrar of the filing of the 34258
petition, and send the registrar a copy of the petition. 34259

In the proceedings, the registrar shall be represented by the 34260
prosecuting attorney of the county in which the arrest occurred if 34261
the petition is filed in the juvenile court, county court, or 34262
common pleas court, except that, if the arrest occurred within a 34263
city or village within the jurisdiction of the county court in 34264
which the petition is filed, the city director of law or village 34265
solicitor of that city or village shall represent the registrar. 34266
If the petition is filed in the municipal court, the registrar 34267
shall be represented as provided in section 1901.34 of the Revised 34268
Code. If the petition is filed in a mayor's court, the registrar 34269
shall be represented by the city director of law, village 34270
solicitor, or other chief legal officer of the municipal 34271
corporation that operates the mayor's court. 34272

The court, if it finds reasonable cause to believe that 34273
suspension would seriously affect the person's ability to continue 34274
in the person's employment, may grant the person occupational 34275
driving privileges during the period of suspension imposed 34276
pursuant to division (E) of this section, subject to the 34277
limitations contained in this division and division (I)(2) of this 34278
section. The court may grant the occupational driving privileges, 34279
subject to the limitations contained in this division and division 34280
(I)(2) of this section, regardless of whether the person appeals 34281
the suspension at the person's initial appearance under division 34282
(H)(1) of this section or appeals the decision of the court made 34283
pursuant to the appeal conducted at the initial appearance, and, 34284
if the person has appealed the suspension or decision, regardless 34285
of whether the matter at issue has been heard or decided by the 34286

court. The court shall not grant occupational driving privileges 34287
for employment as a driver of commercial motor vehicles to any 34288
person who is disqualified from operating a commercial motor 34289
vehicle under section 3123.611 or 4506.16 of the Revised Code or 34290
whose commercial driver's license or commercial driver's temporary 34291
instruction permit has been suspended under section 3123.58 of the 34292
Revised Code. 34293

(2)(a) In granting occupational driving privileges under 34294
division (I)(1) of this section, the court may impose any 34295
condition it considers reasonable and necessary to limit the use 34296
of a vehicle by the person. The court shall deliver to the person 34297
a permit card, in a form to be prescribed by the court, setting 34298
forth the time, place, and other conditions limiting the 34299
defendant's use of a vehicle. The grant of occupational driving 34300
privileges shall be conditioned upon the person's having the 34301
permit in the person's possession at all times during which the 34302
person is operating a vehicle. 34303

A person granted occupational driving privileges who operates 34304
a vehicle for other than occupational purposes, in violation of 34305
any condition imposed by the court, or without having the permit 34306
in the person's possession, is guilty of a violation of section 34307
4507.02 of the Revised Code. 34308

(b) The court may not grant a person occupational driving 34309
privileges under division (I)(1) of this section when prohibited 34310
by a limitation contained in that division or during any of the 34311
following periods of time: 34312

(i) The first thirty days of suspension imposed upon a person 34313
who, within five years of the date on which the person refused the 34314
request to consent to a chemical test of the person's blood, 34315
breath, or urine to determine its alcohol content and for which 34316
refusal the suspension was imposed, had not refused a previous 34317
request to consent to a chemical test of the person's blood, 34318

breath, or urine to determine its alcohol content; 34319

(ii) The first ninety days of suspension imposed upon a 34320
person who, within five years of the date on which the person 34321
refused the request to consent to a chemical test of the person's 34322
blood, breath, or urine to determine its alcohol content and for 34323
which refusal the suspension was imposed, had refused one previous 34324
request to consent to a chemical test of the person's blood, 34325
breath, or urine to determine its alcohol content; 34326

(iii) The first year of suspension imposed upon a person who, 34327
within five years of the date on which the person refused the 34328
request to consent to a chemical test of the person's blood, 34329
breath, or urine to determine its alcohol content and for which 34330
refusal the suspension was imposed, had refused two previous 34331
requests to consent to a chemical test of the person's blood, 34332
breath, or urine to determine its alcohol content; 34333

(iv) The first three years of suspension imposed upon a 34334
person who, within five years of the date on which the person 34335
refused the request to consent to a chemical test of the person's 34336
blood, breath, or urine to determine its alcohol content and for 34337
which refusal the suspension was imposed, had refused three or 34338
more previous requests to consent to a chemical test of the 34339
person's blood, breath, or urine to determine its alcohol content. 34340

(3) The court shall give information in writing of any action 34341
taken under this section to the registrar. 34342

(4) If a person's driver's or commercial driver's license or 34343
permit or nonresident operating privilege has been suspended 34344
pursuant to division (F) of this section, and the person, within 34345
the preceding seven years, has been convicted of or pleaded guilty 34346
to three or more violations of division (A) or (B) of section 34347
4511.19 of the Revised Code, a municipal ordinance relating to 34348
operating a vehicle while under the influence of alcohol, a drug 34349

of abuse, or alcohol and a drug of abuse, a municipal ordinance 34350
relating to operating a vehicle with a prohibited concentration of 34351
alcohol in the blood, breath, or urine, section 2903.04 of the 34352
Revised Code in a case in which the person was subject to the 34353
sanctions described in division (D) of that section, or section 34354
2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal 34355
ordinance that is substantially similar to section 2903.07 of the 34356
Revised Code in a case in which the jury or judge found that the 34357
person was under the influence of alcohol, a drug of abuse, or 34358
alcohol and a drug of abuse, or a statute of the United States or 34359
of any other state or a municipal ordinance of a municipal 34360
corporation located in any other state that is substantially 34361
similar to division (A) or (B) of section 4511.19 of the Revised 34362
Code, the person is not entitled to request, and the court shall 34363
not grant to the person, occupational driving privileges under 34364
this division. Any other person whose driver's or commercial 34365
driver's license or nonresident operating privilege has been 34366
suspended pursuant to division (F) of this section may file in the 34367
court specified in division (I)(1)(b) of this section a petition 34368
requesting occupational driving privileges in accordance with 34369
section 4507.16 of the Revised Code. The petition may be filed at 34370
any time subsequent to the date on which the arresting officer 34371
serves the notice of suspension upon the arrested person. Upon the 34372
making of the request, occupational driving privileges may be 34373
granted in accordance with section 4507.16 of the Revised Code. 34374
The court may grant the occupational driving privileges, subject 34375
to the limitations contained in section 4507.16 of the Revised 34376
Code, regardless of whether the person appeals the suspension at 34377
the person's initial appearance under division (H)(1) of this 34378
section or appeals the decision of the court made pursuant to the 34379
appeal conducted at the initial appearance, and, if the person has 34380
appealed the suspension or decision, regardless of whether the 34381
matter at issue has been heard or decided by the court. 34382

(J) When it finally has been determined under the procedures 34383
of this section that a nonresident's privilege to operate a 34384
vehicle within this state has been suspended, the registrar shall 34385
give information in writing of the action taken to the motor 34386
vehicle administrator of the state of the person's residence and 34387
of any state in which the person has a license. 34388

(K) A suspension of the driver's or commercial driver's 34389
license or permit of a resident, a suspension of the operating 34390
privilege of a nonresident, or a denial of a driver's or 34391
commercial driver's license or permit pursuant to division (E) or 34392
(F) of this section shall be terminated by the registrar upon 34393
receipt of notice of the person's entering a plea of guilty to, or 34394
of the person's conviction of, operating a vehicle while under the 34395
influence of alcohol, a drug of abuse, or alcohol and a drug of 34396
abuse or with a prohibited concentration of alcohol in the blood, 34397
breath, or urine, if the offense for which the plea is entered or 34398
that resulted in the conviction arose from the same incident that 34399
led to the suspension or denial. 34400

The registrar shall credit against any judicial suspension of 34401
a person's driver's or commercial driver's license or permit or 34402
nonresident operating privilege imposed pursuant to division (B) 34403
or (E) of section 4507.16 of the Revised Code any time during 34404
which the person serves a related suspension imposed pursuant to 34405
division (E) or (F) of this section. 34406

(L) At the end of a suspension period under this section, 34407
section 4511.196, or division (B) of section 4507.16 of the 34408
Revised Code and upon the request of the person whose driver's or 34409
commercial driver's license or permit was suspended and who is not 34410
otherwise subject to suspension, revocation, or disqualification, 34411
the registrar shall return the driver's or commercial driver's 34412
license or permit to the person upon the person's compliance with 34413
all of the conditions specified in divisions (L)(1) and (2) of 34414

this section: 34415

(1) A showing by the person that the person has proof of 34416
financial responsibility, a policy of liability insurance in 34417
effect that meets the minimum standards set forth in section 34418
4509.51 of the Revised Code, or proof, to the satisfaction of the 34419
registrar, that the person is able to respond in damages in an 34420
amount at least equal to the minimum amounts specified in section 34421
4509.51 of the Revised Code. 34422

(2) Subject to the limitation contained in division (L)(3) of 34423
this section, payment by the person of a license reinstatement fee 34424
of four hundred twenty-five dollars to the bureau of motor 34425
vehicles, which fee shall be deposited in the state treasury and 34426
credited as follows: 34427

(a) One hundred twelve dollars and fifty cents shall be 34428
credited to the statewide treatment and prevention fund created by 34429
section 4301.30 of the Revised Code. The fund shall be used to pay 34430
the costs of driver treatment and intervention programs operated 34431
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 34432
director of alcohol and drug addiction services shall determine 34433
the share of the fund that is to be allocated to alcohol and drug 34434
addiction programs authorized by section 3793.02 of the Revised 34435
Code, and the share of the fund that is to be allocated to 34436
drivers' intervention programs authorized by section 3793.10 of 34437
the Revised Code. 34438

(b) Seventy-five dollars shall be credited to the reparations 34439
fund created by section 2743.191 of the Revised Code. 34440

(c) Thirty-seven dollars and fifty cents shall be credited to 34441
the indigent drivers alcohol treatment fund, which is hereby 34442
established. Except as otherwise provided in division (L)(2)(c) of 34443
this section, moneys in the fund shall be distributed by the 34444
department of alcohol and drug addiction services to the county 34445

indigent drivers alcohol treatment funds, the county juvenile 34446
indigent drivers alcohol treatment funds, and the municipal 34447
indigent drivers alcohol treatment funds that are required to be 34448
established by counties and municipal corporations pursuant to 34449
division (N) of this section, and shall be used only to pay the 34450
cost of an alcohol and drug addiction treatment program attended 34451
by an offender or juvenile traffic offender who is ordered to 34452
attend an alcohol and drug addiction treatment program by a 34453
county, juvenile, or municipal court judge and who is determined 34454
by the county, juvenile, or municipal court judge not to have the 34455
means to pay for attendance at the program or to pay the costs 34456
specified in division (N)(4) of this section in accordance with 34457
that division. Moneys in the fund that are not distributed to a 34458
county indigent drivers alcohol treatment fund, a county juvenile 34459
indigent drivers alcohol treatment fund, or a municipal indigent 34460
drivers alcohol treatment fund under division (N) of this section 34461
because the director of alcohol and drug addiction services does 34462
not have the information necessary to identify the county or 34463
municipal corporation where the offender or juvenile offender was 34464
arrested may be transferred by the director of budget and 34465
management to the statewide treatment and prevention fund created 34466
by section 4301.30 of the Revised Code, upon certification of the 34467
amount by the director of alcohol and drug addiction services. 34468

(d) Seventy-five dollars shall be credited to the Ohio 34469
rehabilitation services commission established by section 3304.12 34470
of the Revised Code, to the services for rehabilitation fund, 34471
which is hereby established. The fund shall be used to match 34472
available federal matching funds where appropriate, and for any 34473
other purpose or program of the commission to rehabilitate people 34474
with disabilities to help them become employed and independent. 34475

(e) ~~Seventy-five~~ Sixty dollars shall be ~~deposited into the~~ 34476
~~state treasury and~~ credited to the ~~drug abuse resistance education~~ 34477

public transportation grant programs fund, which is hereby 34478
established, to be used by the attorney general for the purposes 34479
specified in division (L)(4) of this section department of 34480
transportation to match available federal public transportation 34481
funds and for the department's related operating expenses. 34482

(f) Thirty dollars shall be credited to the state bureau of 34483
motor vehicles fund created by section 4501.25 of the Revised 34484
Code. 34485

(g) Twenty dollars shall be credited to the trauma and 34486
emergency medical services grants fund created by section 4513.263 34487
of the Revised Code. 34488

(h) Fifteen dollars shall be credited to the public safety 34489
investigative unit fund, which is hereby established, to be used 34490
by the department of public safety investigative unit for the 34491
enforcement of the laws and rules described in division (B)(1) of 34492
section 5502.14 of the Revised Code. 34493

(3) If a person's driver's or commercial driver's license or 34494
permit is suspended under division (E) or (F) of this section, 34495
section 4511.196, or division (B) of section 4507.16 of the 34496
Revised Code, or any combination of the suspensions described in 34497
division (L)(3) of this section, and if the suspensions arise from 34498
a single incident or a single set of facts and circumstances, the 34499
person is liable for payment of, and shall be required to pay to 34500
the bureau, only one reinstatement fee of four hundred five 34501
dollars. The reinstatement fee shall be distributed by the bureau 34502
in accordance with division (L)(2) of this section. 34503

~~(4) The attorney general shall use amounts in the drug abuse~~ 34504
~~resistance education programs fund to award grants to law~~ 34505
~~enforcement agencies to establish and implement drug abuse~~ 34506
~~resistance education programs in public schools. Grants awarded to~~ 34507
~~a law enforcement agency under division (L)(2)(c) of this section~~ 34508

~~shall be used by the agency to pay for not more than fifty per 34509
cent of the amount of the salaries of law enforcement officers who 34510
conduct drug abuse resistance education programs in public 34511
schools. The attorney general shall not use more than six per cent 34512
of the amounts the attorney general's office receives under 34513
division (L)(2)(e) of this section to pay the costs it incurs in 34514
administering the grant program established by division (L)(2)(e) 34515
of this section and in providing training and materials relating 34516
to drug abuse resistance education programs. 34517~~

~~The attorney general shall report to the governor and the 34518
general assembly each fiscal year on the progress made in 34519
establishing and implementing drug abuse resistance education 34520
programs. These reports shall include an evaluation of the 34521
effectiveness of these programs. 34522~~

(M) Suspension of a commercial driver's license under 34523
division (E) or (F) of this section shall be concurrent with any 34524
period of disqualification under section 3123.611 or 4506.16 of 34525
the Revised Code or any period of suspension under section 3123.58 34526
of the Revised Code. No person who is disqualified for life from 34527
holding a commercial driver's license under section 4506.16 of the 34528
Revised Code shall be issued a driver's license under Chapter 34529
4507. of the Revised Code during the period for which the 34530
commercial driver's license was suspended under division (E) or 34531
(F) of this section, and no person whose commercial driver's 34532
license is suspended under division (E) or (F) of this section 34533
shall be issued a driver's license under that chapter during the 34534
period of the suspension. 34535

(N)(1) Each county shall establish an indigent drivers 34536
alcohol treatment fund, each county shall establish a juvenile 34537
indigent drivers alcohol treatment fund, and each municipal 34538
corporation in which there is a municipal court shall establish an 34539
indigent drivers alcohol treatment fund. All revenue that the 34540

general assembly appropriates to the indigent drivers alcohol 34541
treatment fund for transfer to a county indigent drivers alcohol 34542
treatment fund, a county juvenile indigent drivers alcohol 34543
treatment fund, or a municipal indigent drivers alcohol treatment 34544
fund, all portions of fees that are paid under division (L) of 34545
this section and that are credited under that division to the 34546
indigent drivers alcohol treatment fund in the state treasury for 34547
a county indigent drivers alcohol treatment fund, a county 34548
juvenile indigent drivers alcohol treatment fund, or a municipal 34549
indigent drivers alcohol treatment fund, and all portions of fines 34550
that are specified for deposit into a county or municipal indigent 34551
drivers alcohol treatment fund by section 4511.193 of the Revised 34552
Code shall be deposited into that county indigent drivers alcohol 34553
treatment fund, county juvenile indigent drivers alcohol treatment 34554
fund, or municipal indigent drivers alcohol treatment fund in 34555
accordance with division (N)(2) of this section. Additionally, all 34556
portions of fines that are paid for a violation of section 4511.19 34557
of the Revised Code or division (B)(2) of section 4507.02 of the 34558
Revised Code, and that are required under division (A)(1), (2), 34559
(5), or (6) of section 4511.99 or division (B)(5) of section 34560
4507.99 of the Revised Code to be deposited into a county indigent 34561
drivers alcohol treatment fund or municipal indigent drivers 34562
alcohol treatment fund shall be deposited into the appropriate 34563
fund in accordance with the applicable division. 34564

(2) That portion of the license reinstatement fee that is 34565
paid under division (L) of this section and that is credited under 34566
that division to the indigent drivers alcohol treatment fund shall 34567
be deposited into a county indigent drivers alcohol treatment 34568
fund, a county juvenile indigent drivers alcohol treatment fund, 34569
or a municipal indigent drivers alcohol treatment fund as follows: 34570

(a) If the suspension in question was imposed under this 34571
section, that portion of the fee shall be deposited as follows: 34572

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under division (B) of section 4507.16 of the Revised Code, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a

person who is convicted of, or found to be a juvenile traffic 34604
offender by reason of, a violation of division (A) of section 34605
4511.19 of the Revised Code or a substantially similar municipal 34606
ordinance, who is ordered by the court to attend the alcohol and 34607
drug addiction treatment program, and who is determined by the 34608
court to be unable to pay the cost of attendance at the treatment 34609
program or for payment of the costs specified in division (N)(4) 34610
of this section in accordance with that division. The alcohol and 34611
drug addiction services board or the board of alcohol, drug 34612
addiction, and mental health services established pursuant to 34613
section 340.02 or 340.021 of the Revised Code and serving the 34614
alcohol, drug addiction, and mental health service district in 34615
which the court is located shall administer the indigent drivers 34616
alcohol treatment program of the court. When a court orders an 34617
offender or juvenile traffic offender to attend an alcohol and 34618
drug addiction treatment program, the board shall determine which 34619
program is suitable to meet the needs of the offender or juvenile 34620
traffic offender, and when a suitable program is located and space 34621
is available at the program, the offender or juvenile traffic 34622
offender shall attend the program designated by the board. A 34623
reasonable amount not to exceed five per cent of the amounts 34624
credited to and deposited into the county indigent drivers alcohol 34625
treatment fund, the county juvenile indigent drivers alcohol 34626
treatment fund, or the municipal indigent drivers alcohol 34627
treatment fund serving every court whose program is administered 34628
by that board shall be paid to the board to cover the costs it 34629
incurs in administering those indigent drivers alcohol treatment 34630
programs. 34631

(4) If a county, juvenile, or municipal court determines, in 34632
consultation with the alcohol and drug addiction services board or 34633
the board of alcohol, drug addiction, and mental health services 34634
established pursuant to section 340.02 or 340.021 of the Revised 34635
Code and serving the alcohol, drug addiction, and mental health 34636

district in which the court is located, that the funds in the 34637
county indigent drivers alcohol treatment fund, the county 34638
juvenile indigent drivers alcohol treatment fund, or the municipal 34639
indigent drivers alcohol treatment fund under the control of the 34640
court are more than sufficient to satisfy the purpose for which 34641
the fund was established, as specified in divisions (N)(1) to (3) 34642
of this section, the court may declare a surplus in the fund. If 34643
the court declares a surplus in the fund, the court may expend the 34644
amount of the surplus in the fund for alcohol and drug abuse 34645
assessment and treatment of persons who are charged in the court 34646
with committing a criminal offense or with being a delinquent 34647
child or juvenile traffic offender and in relation to whom both of 34648
the following apply: 34649

(a) The court determines that substance abuse was a 34650
contributing factor leading to the criminal or delinquent activity 34651
or the juvenile traffic offense with which the person is charged. 34652

(b) The court determines that the person is unable to pay the 34653
cost of the alcohol and drug abuse assessment and treatment for 34654
which the surplus money will be used. 34655

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 34656
trackless trolley upon meeting or overtaking from either direction 34657
any school bus stopped for the purpose of receiving or discharging 34658
any school child, person attending programs offered by community 34659
boards of mental health and county boards of mental retardation 34660
and developmental disabilities, or child attending a program 34661
offered by a head start agency, shall stop at least ten feet from 34662
the front or rear of the school bus and shall not proceed until 34663
such school bus resumes motion, or until signaled by the school 34664
bus driver to proceed. 34665

It is no defense to a charge under this division that the 34666
school bus involved failed to display or be equipped with an 34667

automatically extended stop warning sign as required by division 34668
(B) of this section. 34669

(B) Every school bus shall be equipped with amber and red 34670
visual signals meeting the requirements of section 4511.771 of the 34671
Revised Code, and an automatically extended stop warning sign of a 34672
type approved by the state board of education, which shall be 34673
actuated by the driver of the bus whenever but only whenever the 34674
bus is stopped or stopping on the roadway for the purpose of 34675
receiving or discharging school children, persons attending 34676
programs offered by community boards of mental health and county 34677
boards of mental retardation and developmental disabilities, or 34678
children attending programs offered by head start agencies. A 34679
school bus driver shall not actuate the visual signals or the stop 34680
warning sign in designated school bus loading areas where the bus 34681
is entirely off the roadway or at school buildings when children 34682
or persons attending programs offered by community boards of 34683
mental health and county boards of mental retardation and 34684
developmental disabilities are loading or unloading at curbside or 34685
at buildings when children attending programs offered by head 34686
start agencies are loading or unloading at curbside. The visual 34687
signals and stop warning sign shall be synchronized or otherwise 34688
operated as required by rule of the board. 34689

(C) Where a highway has been divided into four or more 34690
traffic lanes, a driver of a vehicle, streetcar, or trackless 34691
trolley need not stop for a school bus approaching from the 34692
opposite direction which has stopped for the purpose of receiving 34693
or discharging any school child, persons attending programs 34694
offered by community boards of mental health and county boards of 34695
mental retardation and developmental disabilities, or children 34696
attending programs offered by head start agencies. The driver of 34697
any vehicle, streetcar, or trackless trolley overtaking the school 34698
bus shall comply with division (A) of this section. 34699

(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) As used in this section:

(1) "Head start agency" has the same meaning as in ~~division (A)(1)~~ of section 3301.31 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

Sec. 4561.18. Applications for the licensing and registration

of aircraft shall be made and signed by the owner thereof upon 34730
forms prepared by the department of transportation and shall 34731
contain a description of the aircraft, including its federal 34732
registration number, and such other information as is required by 34733
the department. 34734

Applications shall be filed with the director of 34735
transportation during the month of January, annually and shall be 34736
renewed according to the standard renewal procedure of sections 34737
4745.01 to 4745.03 of the Revised Code. Application for 34738
registration of any aircraft not previously registered in this 34739
state, if such aircraft is acquired or becomes subject to such 34740
license tax subsequent to the last day of January in any year, 34741
shall be made for the balance of the year in which the same is 34742
acquired, within forty-eight hours after such acquisition or after 34743
becoming subject to such license tax. Each such application shall 34744
be accompanied by the proper license tax, which ~~shall be at the~~ 34745
~~following rates: For, for~~ aircraft other than gliders, ~~listed by~~ 34746
~~the manufacturer thereof as having a maximum seating capacity of~~ 34747
~~either one or two persons, six dollars annually; three persons,~~ 34748
~~eight dollars annually; four persons, twelve dollars annually;~~ 34749
~~five persons, fifteen dollars annually; over five persons, fifteen~~ 34750
~~dollars plus five dollars for each person in excess thereof,~~ 34751
~~annually; and shall be at the annual rate of one hundred dollars~~ 34752
~~per aircraft. The license tax for gliders, shall be~~ three dollars 34753
annually. 34754

Such taxes are in lieu of all other taxes on or with respect 34755
to ownership of such aircraft. 34756

Sec. 4561.21. (A) The director of transportation shall 34757
deposit all ~~license taxes and~~ transfer fees in the state treasury 34758
to the credit of the general fund. 34759

(B) The director shall deposit all license taxes in the state 34760

treasury to the credit of the county airport maintenance 34761
assistance fund, which is hereby created. Money in the fund shall 34762
be used to assist counties in maintaining the airports they own, 34763
and the director shall distribute the money to counties in 34764
accordance with such procedures, guidelines, and criteria as the 34765
director shall establish. 34766

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as 34767
auction companies under former section 4707.071 of the Revised 34768
Code shall comply with all provisions of this chapter that are 34769
applicable to auctioneers except as provided in divisions (B) and 34770
(C) of this section. Such persons, however, do not have to serve 34771
an apprenticeship or attend a course of study under section 34772
4707.09 of the Revised Code or submit to an examination under 34773
section 4707.08 of the Revised Code as long as they do not engage 34774
in the calling for, recognition of, and the acceptance of, offers 34775
for the purchase of personal property at auction and do not 34776
conduct auctions at any location other than the definite place of 34777
business required in section 4707.14 of the Revised Code. 34778

(B) The principal owner of each auction company ~~which~~ that is 34779
licensed as of May 1, 1991, who pays the annual renewal fee 34780
specified in division ~~(A)~~(B) of section 4707.10 of the Revised 34781
Code during the first renewal period following May 1, 1991, shall 34782
be issued a special auctioneer's license, for the sale of personal 34783
property subject to division (A) of this section. Each principal 34784
owner shall apply for an annual license. In applying for an annual 34785
license, each person licensed as an auction company on May 1, 34786
1991, shall designate an individual as principal owner by 34787
submitting documentation substantiating that the individual is in 34788
fact the principal owner and shall identify a definite place of 34789
business as required in section 4707.14 of the Revised Code. A 34790
person licensed as an auctioneer shall not be entitled to a 34791
special auctioneer's license. 34792

(C) A special auctioneer's license issued under this section 34793
to the principal owner of a former auction company does not 34794
entitle the principal owner or former auction company to conduct 34795
auctions at any location other than the definite place of business 34796
required in section 4707.14 of the Revised Code. Notwithstanding 34797
section 4707.10 of the Revised Code, the department of agriculture 34798
shall not issue a new special auctioneer's license if the definite 34799
place of business identified by the licensee in the licensee's 34800
initial application for a special auctioneer license has changed 34801
or if the name under which the licensee is doing business has 34802
changed. No person other than an owner, officer, member, or agent 34803
of the former auction company who personally has passed the 34804
examination prescribed in section 4707.08 of the Revised Code and 34805
been licensed as an auctioneer shall engage in the calling for, 34806
recognition of, and the acceptance of, offers for the purchase of 34807
real or personal property, goods, or chattels at auction in 34808
connection with a former auction company that has been issued a 34809
special auctioneer's license. 34810

(D) A person licensed as a special auctioneer shall not 34811
engage in the sale of real property at auction. 34812

Sec. 4707.072. (A) For purposes of this section, the 34813
department of agriculture shall adopt rules in accordance with 34814
section 4707.19 of the Revised Code prescribing the fee that a 34815
license applicant must pay. Until those rules are adopted, a 34816
license applicant shall pay the fee established in this section. 34817

(B) The department ~~of agriculture~~ may grant one-auction 34818
licenses to any nonresident person deemed qualified by the 34819
department. Any person who applies for a one-auction license shall 34820
attest, on forms provided by the department, and furnish to the 34821
department, satisfactory proof that the license applicant or any 34822
auctioneer affiliated with the applicant meets the following 34823

requirements:	34824
(A) (1) Has a good reputation;	34825
(B) (2) Is of trustworthy character;	34826
(C) (3) Has attained the age of at least eighteen years;	34827
(D) (4) Has a general knowledge of the requirements of the	34828
Revised Code relative to auctioneers, the auction profession, and	34829
the principles involved in conducting an auction;	34830
(E) (5) Has two years of professional auctioneering experience	34831
immediately preceding the date of application and the experience	34832
includes the personal conduct by the applicant of at least twelve	34833
auction sales in any state, or has met the requirements of section	34834
4707.12 of the Revised Code;	34835
(F) (6) Has paid a fee of one hundred dollars, which shall be	34836
credited to the auctioneers fund;	34837
(G) (7) Has provided proof of financial responsibility as	34838
required under section 4707.11 of the Revised Code in the form of	34839
either an irrevocable letter of credit or a cash bond or a surety	34840
bond in the amount of fifty thousand dollars. If the applicant	34841
gives a surety bond, the bond shall be executed by a surety	34842
company authorized to do business in this state. A bond shall be	34843
made to the department and shall be conditioned that the applicant	34844
shall comply with this chapter and rules adopted under it,	34845
including refraining from conduct described in section 4707.15 of	34846
the Revised Code. All bonds shall be on a form approved by the	34847
director of agriculture.	34848
Sec. 4707.10. (A) <u>For purposes of this section, the</u>	34849
<u>department of agriculture shall adopt rules in accordance with</u>	34850
<u>section 4707.19 of the Revised Code prescribing fees that</u>	34851
<u>licensees must pay and license renewal deadlines and procedures</u>	34852
<u>with which licensees must comply. Until those rules are adopted,</u>	34853

licensees shall pay the fees and comply with the license renewal 34854
deadlines and procedures established in this section. 34855

(B) The fee for each auctioneer's, apprentice auctioneer's, 34856
or special auctioneer's license issued by the department of 34857
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 34858
any such license is one hundred dollars. All licenses expire 34859
annually on the last day of June of each year and shall be renewed 34860
according to the standard renewal procedures of Chapter 4745. of 34861
the Revised Code, or the procedures of this section. Any licensee 34862
under this chapter who wishes to renew the licensee's license, but 34863
fails to do so before the first day of July shall reapply for 34864
licensure in the same manner and pursuant to the same requirements 34865
as for initial licensure, unless before the first day of September 34866
of the year of expiration, the former licensee pays to the 34867
department, in addition to the regular renewal fee, a late renewal 34868
penalty of one hundred dollars. 34869

~~(B)~~(C) Any person who fails to renew the person's license 34870
before the first day of July is prohibited from engaging in any 34871
activity specified or comprehended in section 4707.01 of the 34872
Revised Code until such time as the person's license is renewed or 34873
a new license is issued. Renewal of a license between the first 34874
day of July and the first day of September does not relieve any 34875
person from complying with this division. The department may 34876
refuse to renew the license of or issue a new license to any 34877
person who violates this division. 34878

~~(C)~~(D) The department shall prepare and deliver to each 34879
licensee a permanent license certificate and an ~~annual renewal~~ 34880
identification card, the appropriate portion of which shall be 34881
carried on the person of the licensee at all times when engaged in 34882
any type of auction activity, and part of which shall be posted 34883
with the permanent certificate in a conspicuous location at the 34884
licensee's place of business. 34885

~~(D)~~(E) Notice in writing shall be given to the department by 34886
each auctioneer or apprentice auctioneer licensee of any change of 34887
principal business location or any change or addition to the name 34888
or names under which business is conducted, whereupon the 34889
department shall issue a new license for the unexpired period. Any 34890
change of business location or change or addition of names without 34891
notification to the department shall automatically cancel any 34892
license previously issued. For each new auctioneer or apprentice 34893
auctioneer license issued upon the occasion of a change in 34894
business location or a change in or an addition of names under 34895
which business is conducted, the department may collect a fee of 34896
ten dollars for each change in location, or name or each added 34897
name unless the notification of the change occurs concurrently 34898
with the renewal application. 34899

Sec. 4707.24. Except for the purposes of divisions (A) and 34900
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 34901
4707.31 of the Revised Code do not apply with respect to a license 34902
issued under section 4707.072 of the Revised Code. 34903

Sec. 4709.12. (A) The barber board shall charge and collect 34904
the following fees: 34905

(1) For the application to take the barber examination, ~~sixty~~ 34906
ninety dollars; 34907

(2) For an application to retake any part of the barber 34908
examination, ~~thirty~~ forty-five dollars; 34909

(3) For the initial issuance of a license to practice as a 34910
barber, ~~twenty~~ thirty dollars; 34911

(4) For the biennial renewal of the license to practice as a 34912
barber, ~~seventy-five~~ one hundred ten dollars; 34913

(5) For the restoration of an expired barber license, one 34914

hundred dollars, and ~~forty~~ seventy-five dollars for each lapsed 34915
year, provided that the total fee shall not exceed ~~four~~ six 34916
hundred ~~sixty~~ ninety dollars; 34917

(6) For the issuance of a duplicate barber or shop license, 34918
~~thirty~~ forty-five dollars; 34919

(7) For the inspection of a new barber shop, change of 34920
ownership, or reopening of premises or facilities formerly 34921
operated as a barber shop, and issuance of a shop license, 34922
~~seventy-five~~ one hundred ten dollars; 34923

(8) For the biennial renewal of a barber shop license, ~~fifty~~ 34924
seventy-five dollars; 34925

(9) For the restoration of a barber shop license, 34926
~~seventy-five~~ one hundred ten dollars; 34927

(10) For each inspection of premises for location of a new 34928
barber school, or each inspection of premises for relocation of a 34929
currently licensed barber school, ~~five~~ seven hundred fifty 34930
dollars; 34931

(11) For the initial barber school license, ~~five hundred~~ one 34932
thousand dollars, and ~~five hundred~~ one thousand dollars for the 34933
renewal of the license; 34934

(12) For the restoration of a barber school license, ~~six~~ 34935
~~hundred~~ one thousand dollars; 34936

(13) For the issuance of a student registration, ~~twenty-five~~ 34937
forty dollars; 34938

(14) For the examination and issuance of a biennial teacher 34939
~~or assistant teacher~~ license, one hundred ~~twenty-five~~ eighty-five 34940
dollars; 34941

(15) For the renewal of a biennial teacher ~~or assistant~~ 34942
~~teacher~~ license, one hundred fifty dollars; 34943

(16) For the restoration of an expired teacher ~~or assistant~~ 34944

~~teacher~~ license, ~~one~~ two hundred ~~fifty~~ twenty-five dollars, and 34945
~~forty~~ sixty dollars for each lapsed year, provided that the total 34946
fee shall not exceed ~~three~~ four hundred fifty dollars; 34947

(17) For the issuance of a barber license by reciprocity 34948
pursuant to section 4709.08 of the Revised Code, ~~two~~ three hundred 34949
dollars; 34950

(18) For providing licensure information concerning an 34951
applicant, upon written request of the applicant, ~~twenty-five~~ 34952
forty dollars. 34953

(B) The board, subject to the approval of the controlling 34954
board, may establish fees in excess of the amounts provided in 34955
this section, provided that the fees do not exceed the amounts 34956
permitted by this section by more than fifty per cent. 34957

Sec. 4717.01. As used in this chapter: 34958

(A) "Embalming" means the preservation and disinfection, or 34959
attempted preservation and disinfection, of the dead human body by 34960
application of chemicals externally, internally, or both. 34961

(B) "Funeral business" means a sole proprietorship, 34962
partnership, corporation, limited liability company, or other 34963
business entity that is engaged in funeral directing for profit or 34964
for free from one or more funeral homes licensed under this 34965
chapter. 34966

(C) "Funeral directing" means the business or profession of 34967
directing or supervising funerals for profit, the business or 34968
profession of preparing dead human bodies for burial by means 34969
other than embalming, the disposition of dead human bodies, the 34970
provision or maintenance of a place for the preparation, the care, 34971
or disposition of dead human bodies, the use in connection with a 34972
business of the term "funeral director," "undertaker," 34973
"mortician," or any other term from which can be implied the 34974

business of funeral directing, or the holding out to the public 34975
that one is a funeral director or a disposer of dead human bodies. 34976

(D) "Funeral home" means a fixed place for the care, 34977
preparation for burial, or disposition of dead human bodies or the 34978
conducting of funerals. Each business location is a funeral home, 34979
regardless of common ownership or management. 34980

(E) "Embalmer" means a person who engages, in whole or in 34981
part, in embalming and who is licensed under this chapter. 34982

(F) "Funeral director" means a person who engages, in whole 34983
or in part, in funeral directing and who is licensed under this 34984
chapter. 34985

(G) "Final disposition" has the same meaning as in division 34986
~~(J)~~(K) of section 3705.01 of the Revised Code. 34987

(H) "Supervision" means the operation of all phases of the 34988
business of funeral directing or embalming under the specific 34989
direction of a licensed funeral director or licensed embalmer. 34990

(I) "Direct supervision" means the physical presence of a 34991
licensed funeral director or licensed embalmer while the specific 34992
functions of the funeral or embalming are being carried out. 34993

(J) "Embalming facility" means a fixed location, separate 34994
from the funeral home, that is licensed under this chapter whose 34995
only function is the embalming and preparation of dead human 34996
bodies. 34997

(K) "Crematory facility" means the physical location at which 34998
a cremation chamber is located and the cremation process takes 34999
place. "Crematory facility" does not include an infectious waste 35000
incineration facility for which a license is held under division 35001
(B) of section 3734.05 of the Revised Code, or a solid waste 35002
incineration facility for which a license is held under division 35003
(A) of that section that includes a notation pursuant to division 35004

(B)(3) of that section authorizing the facility to also treat 35005
infectious wastes, in connection with the incineration of body 35006
parts other than dead human bodies that were donated to science 35007
for purposes of medical education or research. 35008

(L) "Crematory" means the building or portion of a building 35009
that houses the holding facility and the cremation chamber. 35010

(M) "Cremation" means the technical process of using heat and 35011
flame to reduce human or animal remains to bone fragments or ashes 35012
or any combination thereof. "Cremation" includes processing and 35013
may include the pulverization of bone fragments. 35014

(N) "Cremation chamber" means the enclosed space within which 35015
cremation takes place. 35016

(O) "Cremated remains" means all human or animal remains 35017
recovered after the completion of the cremation process, which may 35018
include the residue of any foreign matter such as casket material, 35019
dental work, or eyeglasses that were cremated with the human or 35020
animal remains. 35021

(P) "Lapsed license" means a license issued under this 35022
chapter that has become invalid because of the failure of the 35023
licensee to renew the license within the time limits prescribed 35024
under this chapter. 35025

(Q) "Operator of a crematory facility" means the sole 35026
proprietorship, partnership, corporation, limited liability 35027
company, or other business entity responsible for the overall 35028
operation of a crematory facility. 35029

(R) "Processing" means the reduction of identifiable bone 35030
fragments to unidentifiable bone fragments through manual or 35031
mechanical means after the completion of the cremation process. 35032

(S) "Pulverization" means the reduction of identifiable bone 35033
fragments to granulated particles by manual or mechanical means 35034

after the completion of the cremation process. 35035

Sec. 4717.07. (A) The board of embalmers and funeral 35036
directors shall charge and collect the following fees: 35037

(1) For the initial issuance or biennial renewal of an 35038
~~initial~~ embalmer's or funeral director's license, ~~five~~ one hundred 35039
forty dollars; 35040

(2) For the issuance of an embalmer or funeral director 35041
registration, twenty-five dollars; 35042

(3) For filing an embalmer or funeral director certificate of 35043
apprenticeship, ten dollars; 35044

(4) For the application to take the examination for a license 35045
to practice as an embalmer or funeral director, or to retake a 35046
section of the examination, thirty-five dollars; 35047

(5) ~~For the biennial renewal of an embalmer's or funeral~~ 35048
~~director's license, one hundred twenty dollars;~~ 35049

~~(6)~~ For the initial issuance of a license to operate a 35050
funeral home, ~~one two~~ hundred ~~twenty five~~ fifty dollars and 35051
biennial renewal of a license to operate a funeral home, two 35052
hundred fifty dollars; 35053

~~(7)~~(6) For the reinstatement of a lapsed embalmer's or 35054
funeral director's license, the renewal fee prescribed in division 35055
(A)(5) of this section plus fifty dollars for each month or 35056
portion of a month the license is lapsed until reinstatement; 35057

~~(8)~~(7) For the reinstatement of a lapsed license to operate a 35058
funeral home, the renewal fee prescribed in division (A)(6) of 35059
this section plus fifty dollars for each month or portion of a 35060
month the license is lapsed until reinstatement; 35061

~~(9)~~(8) For the initial issuance of a license to operate an 35062
embalming facility, ~~one two~~ hundred dollars and biennial renewal 35063

of a license to operate an embalming facility, two hundred 35064
dollars; 35065

~~(10)~~(9) For the reinstatement of a lapsed license to operate 35066
an embalming facility, the renewal fee prescribed in division 35067
(A)(9) of this section plus fifty dollars for each month or 35068
portion of a month the license is lapsed until reinstatement; 35069

~~(11)~~(10) For the initial issuance of a license to operate a 35070
crematory facility, ~~one~~ two hundred dollars and biennial renewal 35071
of a license to operate a crematory facility, two hundred dollars; 35072

~~(12)~~(11) For the reinstatement of a lapsed license to operate 35073
a crematory facility, the renewal fee prescribed in division 35074
(A)(11) of this section plus fifty dollars for each month or 35075
portion of a month the license is lapsed until reinstatement; 35076

~~(13)~~(12) For the issuance of a duplicate of a license issued 35077
under this chapter, four dollars. 35078

(B) In addition to the fees set forth in division (A) of this 35079
section, an applicant shall pay the examination fee assessed by 35080
any examining agency the board uses for any section of an 35081
examination required under this chapter. 35082

(C) Subject to the approval of the controlling board, the 35083
board of embalmers and funeral directors may establish fees in 35084
excess of the amounts set forth in this section, provided that 35085
these fees do not exceed the amounts set forth in this section by 35086
more than fifty per cent. 35087

Sec. 4717.09. (A) Every two years, licensed embalmers and 35088
funeral directors shall attend between twelve and thirty hours of 35089
educational programs as a condition for renewal of their licenses. 35090
The board of embalmers and funeral directors shall adopt rules 35091
governing the administration and enforcement of the continuing 35092
education requirements of this section. The board may contract 35093

with a professional organization or association or other third 35094
party to assist it in performing functions necessary to administer 35095
and enforce the continuing education requirements of this section. 35096
A professional organization or association or other third party 35097
with whom the board so contracts may charge a reasonable fee for 35098
performing these functions to licensees or to the persons who 35099
provide continuing education programs. 35100

(B) A person holding both an embalmer's license and a funeral 35101
director's license need meet only the continuing education 35102
requirements established by the board for one or the other of 35103
those licenses in order to satisfy the requirement of division (A) 35104
of this section. 35105

(C) The board shall not renew the license of a licensee who 35106
fails to meet the continuing education requirements of this 35107
section and who has not been granted a waiver or exemption under 35108
division (D) or (E) of this section. 35109

(D) Any licensee who fails to meet the continuing education 35110
requirements of this section because of undue hardship or 35111
disability, or who is not actively engaged in the practice of 35112
funeral directing or embalming in this state, may apply to the 35113
board for a waiver or an exemption. ~~The~~ 35114

(E) A licensee who has been an embalmer or a funeral director 35115
for not less than fifty years and is not actually in charge of an 35116
embalming facility or funeral home may apply to the board for an 35117
exemption. 35118

(F) The board shall determine, by rule, the procedures for 35119
applying for a waiver or an exemption from continuing education 35120
requirements under this section and under what conditions a waiver 35121
or an exemption may be granted. 35122

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 35123

the Revised Code: 35124

(1) "Affiliate" means a business entity that is owned by, 35125
operated by, controlled by, or under common control with another 35126
business entity. 35127

(2) "Communication" means a written or oral notification or 35128
advertisement that meets both of the following criteria, as 35129
applicable: 35130

(a) The notification or advertisement is transmitted by or on 35131
behalf of the seller of goods or services and by or through any 35132
printed, audio, video, cinematic, telephonic, or electronic means. 35133

(b) In the case of a notification or advertisement other than 35134
by telephone, either of the following conditions is met: 35135

(i) The notification or advertisement is followed by a 35136
telephone call from a telephone solicitor or salesperson. 35137

(ii) The notification or advertisement invites a response by 35138
telephone, and, during the course of that response, a telephone 35139
solicitor or salesperson attempts to make or makes a sale of goods 35140
or services. As used in division (A)(2)(b)(ii) of this section, 35141
"invites a response by telephone" excludes the mere listing or 35142
inclusion of a telephone number in a notification or 35143
advertisement. 35144

(3) "Gift, award, or prize" means anything of value that is 35145
offered or purportedly offered, or given or purportedly given by 35146
chance, at no cost to the receiver and with no obligation to 35147
purchase goods or services. As used in this division, "chance" 35148
includes a situation in which a person is guaranteed to receive an 35149
item and, at the time of the offer or purported offer, the 35150
telephone solicitor does not identify the specific item that the 35151
person will receive. 35152

(4) "Goods or services" means any real property or any 35153

tangible or intangible personal property, or services of any kind 35154
provided or offered to a person. "Goods or services" includes, but 35155
is not limited to, advertising; labor performed for the benefit of 35156
a person; personal property intended to be attached to or 35157
installed in any real property, regardless of whether it is so 35158
attached or installed; timeshare estates or licenses; and extended 35159
service contracts. 35160

(5) "Purchaser" means a person that is solicited to become or 35161
does become financially obligated as a result of a telephone 35162
solicitation. 35163

(6) "Salesperson" means an individual who is employed, 35164
appointed, or authorized by a telephone solicitor to make 35165
telephone solicitations but does not mean any of the following: 35166

(a) An individual who comes within one of the exemptions in 35167
division (B) of this section; 35168

(b) An individual employed, appointed, or authorized by a 35169
person who comes within one of the exemptions in division (B) of 35170
this section; 35171

(c) An individual under a written contract with a person who 35172
comes within one of the exemptions in division (B) of this 35173
section, if liability for all transactions with purchasers is 35174
assumed by the person so exempted. 35175

(7) "Telephone solicitation" means a communication to a 35176
person that meets both of the following criteria: 35177

(a) The communication is initiated by or on behalf of a 35178
telephone solicitor or by a salesperson. 35179

(b) The communication either represents a price or the 35180
quality or availability of goods or services or is used to induce 35181
the person to purchase goods or services, including, but not 35182
limited to, inducement through the offering of a gift, award, or 35183

prize. 35184

(8) "Telephone solicitor" means a person that engages in 35185
telephone solicitation directly or through one or more 35186
salespersons either from a location in this state, or from a 35187
location outside this state to persons in this state. "Telephone 35188
solicitor" includes, but is not limited to, any such person that 35189
is an owner, operator, officer, or director of, partner in, or 35190
other individual engaged in the management activities of, a 35191
business. 35192

(B) A telephone solicitor is exempt from the provisions of 35193
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 35194
Code if the telephone solicitor is any one of the following: 35195

(1) A person engaging in a telephone solicitation that is a 35196
one-time or infrequent transaction not done in the course of a 35197
pattern of repeated transactions of a like nature; 35198

(2) A person engaged in telephone solicitation solely for 35199
religious or political purposes; a charitable organization, 35200
fund-raising counsel, or professional solicitor in compliance with 35201
the registration and reporting requirements of Chapter 1716. of 35202
the Revised Code; or any person or other entity exempt under 35203
section 1716.03 of the Revised Code from filing a registration 35204
statement under section 1716.02 of the Revised Code; 35205

(3) A person, making a telephone solicitation involving a 35206
home solicitation sale as defined in section 1345.21 of the 35207
Revised Code, that makes the sales presentation and completes the 35208
sale at a later, face-to-face meeting between the seller and the 35209
purchaser rather than during the telephone solicitation. However, 35210
if the person, following the telephone solicitation, causes 35211
another person to collect the payment of any money, this exemption 35212
does not apply. 35213

(4) A licensed securities, commodities, or investment broker, 35214

dealer, investment advisor, or associated person when making a 35215
telephone solicitation within the scope of the person's license. 35216
As used in division (B)(4) of this section, "licensed securities, 35217
commodities, or investment broker, dealer, investment advisor, or 35218
associated person" means a person subject to licensure or 35219
registration as such by the securities and exchange commission; 35220
the National Association of Securities Dealers or other 35221
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 35222
the division of securities under Chapter 1707. of the Revised 35223
Code; or by an official or agency of any other state of the United 35224
States. 35225

(5)(a) A person primarily engaged in soliciting the sale of a 35226
newspaper of general circulation; 35227

(b) As used in division (B)(5)(a) of this section, "newspaper 35228
of general circulation" includes, but is not limited to, both of 35229
the following: 35230

(i) A newspaper that is a daily law journal designated as an 35231
official publisher of court calendars pursuant to section 2701.09 35232
of the Revised Code; 35233

(ii) A newspaper or publication that has at least twenty-five 35234
per cent editorial, non-advertising content, exclusive of inserts, 35235
measured relative to total publication space, and an audited 35236
circulation to at least fifty per cent of the households in the 35237
newspaper's retail trade zone as defined by the audit. 35238

(6)(a) An issuer, or its subsidiary, that has a class of 35239
securities to which all of the following apply: 35240

(i) The class of securities is subject to section 12 of the 35241
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 35242
registered or is exempt from registration under 15 U.S.C.A. 35243
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 35244

(ii) The class of securities is listed on the New York stock 35245

exchange, the American stock exchange, or the NASDAQ national 35246
market system; 35247

(iii) The class of securities is a reported security as 35248
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 35249

(b) An issuer, or its subsidiary, that formerly had a class 35250
of securities that met the criteria set forth in division 35251
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 35252
net worth in excess of one hundred million dollars, files or its 35253
parent files with the securities and exchange commission an S.E.C. 35254
form 10-K, and has continued in substantially the same business 35255
since it had a class of securities that met the criteria in 35256
division (B)(6)(a) of this section. As used in division (B)(6)(b) 35257
of this section, "issuer" and "subsidiary" include the successor 35258
to an issuer or subsidiary. 35259

(7) A person soliciting a transaction regulated by the 35260
commodity futures trading commission, if the person is registered 35261
or temporarily registered for that activity with the commission 35262
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 35263
registration has not expired or been suspended or revoked; 35264

(8) A person soliciting the sale of any book, record, audio 35265
tape, compact disc, or video, if the person allows the purchaser 35266
to review the merchandise for at least seven days and provides a 35267
full refund within thirty days to a purchaser who returns the 35268
merchandise or if the person solicits the sale on behalf of a 35269
membership club operating in compliance with regulations adopted 35270
by the federal trade commission in 16 C.F.R. 425; 35271

(9) A supervised financial institution or its subsidiary. As 35272
used in division (B)(9) of this section, "supervised financial 35273
institution" means a bank, trust company, savings and loan 35274
association, savings bank, credit union, industrial loan company, 35275
consumer finance lender, commercial finance lender, or institution 35276

described in section 2(c)(2)(F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83 of the Revised Code.

(10)(a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX of the Revised Code or Chapter 1751. of the Revised Code, when soliciting within the scope of its license or authorization.

(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B)(10)(b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance pursuant to Title XXXIX of the Revised Code.

(11) A person soliciting the sale of services provided by a cable television system operating under authority of a governmental franchise or permit;

(12) A person soliciting a business-to-business sale under which any of the following conditions are met:

(a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or

remanufacturing process. 35308

(d) The telephone solicitor is a publisher of a periodical or 35309
of magazines distributed as controlled circulation publications as 35310
defined in division (CC) of section 5739.01 of the Revised Code 35311
and is soliciting sales of advertising, subscriptions, reprints, 35312
lists, information databases, conference participation or 35313
sponsorships, trade shows or media products related to the 35314
periodical or magazine, or other publishing services provided by 35315
the controlled circulation publication. 35316

(13) A person that, not less often than once each year, 35317
publishes and delivers to potential purchasers a catalog that 35318
complies with both of the following: 35319

(a) It includes all of the following: 35320

(i) The business address of the seller; 35321

(ii) A written description or illustration of each good or 35322
service offered for sale; 35323

(iii) A clear and conspicuous disclosure of the sale price of 35324
each good or service; shipping, handling, and other charges; and 35325
return policy; 35326

(b) One of the following applies: 35327

(i) The catalog includes at least twenty-four pages of 35328
written material and illustrations, is distributed in more than 35329
one state, and has an annual postage-paid mail circulation of not 35330
less than two hundred fifty thousand households; 35331

(ii) The catalog includes at least ten pages of written 35332
material or an equivalent amount of material in electronic form on 35333
the internet or an on-line computer service, the person does not 35334
solicit customers by telephone but solely receives telephone calls 35335
made in response to the catalog, and during the calls the person 35336
takes orders but does not engage in further solicitation of the 35337

purchaser. As used in division (B)(13)(b)(ii) of this section, 35338
"further solicitation" does not include providing the purchaser 35339
with information about, or attempting to sell, any other item in 35340
the catalog that prompted the purchaser's call or in a 35341
substantially similar catalog issued by the seller. 35342

(14) A political subdivision or instrumentality of the United 35343
States, this state, or any state of the United States; 35344

(15) A college or university or any other public or private 35345
institution of higher education in this state; 35346

(16) A public utility as defined in section 4905.02 of the 35347
Revised Code or a retail natural gas supplier as defined in 35348
section 4929.01 of the Revised Code, if the utility or supplier is 35349
subject to regulation by the public utilities commission, or the 35350
affiliate of the utility or supplier; 35351

~~(17) A travel agency or tour promoter that is registered in 35352
compliance with section 1333.96 of the Revised Code when 35353
soliciting within the scope of the agency's or promoter's 35354
registration; 35355~~

~~(18)~~ A person that solicits sales through a television 35356
program or advertisement that is presented in the same market area 35357
no fewer than twenty days per month or offers for sale no fewer 35358
than ten distinct items of goods or services; and offers to the 35359
purchaser an unconditional right to return any good or service 35360
purchased within a period of at least seven days and to receive a 35361
full refund within thirty days after the purchaser returns the 35362
good or cancels the service; 35363

~~(19)~~(18)(a) A person that, for at least one year, has been 35364
operating a retail business under the same name as that used in 35365
connection with telephone solicitation and both of the following 35366
occur on a continuing basis: 35367

(i) The person either displays goods and offers them for 35368

retail sale at the person's business premises or offers services 35369
for sale and provides them at the person's business premises. 35370

(ii) At least fifty-one per cent of the person's gross dollar 35371
volume of retail sales involves purchases of goods or services at 35372
the person's business premises. 35373

(b) An affiliate of a person that meets the requirements in 35374
division (B)~~(19)~~(18)(a) of this section if the affiliate meets all 35375
of the following requirements: 35376

(i) The affiliate has operated a retail business for a period 35377
of less than one year; 35378

(ii) The affiliate either displays goods and offers them for 35379
retail sale at the affiliate's business premises or offers 35380
services for sale and provides them at the affiliate's business 35381
premises; 35382

(iii) At least fifty-one per cent of the affiliate's gross 35383
dollar volume of retail sales involves purchases of goods or 35384
services at the affiliate's business premises. 35385

(c) A person that, for a period of less than one year, has 35386
been operating a retail business in this state under the same name 35387
as that used in connection with telephone solicitation, as long as 35388
all of the following requirements are met: 35389

(i) The person either displays goods and offers them for 35390
retail sale at the person's business premises or offers services 35391
for sale and provides them at the person's business premises; 35392

(ii) The goods or services that are the subject of telephone 35393
solicitation are sold at the person's business premises, and at 35394
least sixty-five per cent of the person's gross dollar volume of 35395
retail sales involves purchases of goods or services at the 35396
person's business premises; 35397

(iii) The person conducts all telephone solicitation 35398

activities according to sections 310.3, 310.4, and 310.5 of the 35399
telemarketing sales rule adopted by the federal trade commission 35400
in 16 C.F.R. part 310. 35401

~~(20)~~(19) A person who performs telephone solicitation sales 35402
services on behalf of other persons and to whom one of the 35403
following applies: 35404

(a) The person has operated under the same ownership, 35405
control, and business name for at least five years, and the person 35406
receives at least seventy-five per cent of its gross revenues from 35407
written telephone solicitation contracts with persons who come 35408
within one of the exemptions in division (B) of this section. 35409

(b) The person is an affiliate of one or more exempt persons 35410
and makes telephone solicitations on behalf of only the exempt 35411
persons of which it is an affiliate. 35412

(c) The person makes telephone solicitations on behalf of 35413
only exempt persons, the person and each exempt person on whose 35414
behalf telephone solicitations are made have entered into a 35415
written contract that specifies the manner in which the telephone 35416
solicitations are to be conducted and that at a minimum requires 35417
compliance with the telemarketing sales rule adopted by the 35418
federal trade commission in 16 C.F.R. part 310, and the person 35419
conducts the telephone solicitations in the manner specified in 35420
the written contract. 35421

(d) The person performs telephone solicitation for religious 35422
or political purposes, a charitable organization, a fund-raising 35423
council, or a professional solicitor in compliance with the 35424
registration and reporting requirements of Chapter 1716. of the 35425
Revised Code; and meets all of the following requirements: 35426

(i) The person has operated under the same ownership, 35427
control, and business name for at least five years, and the person 35428
receives at least fifty-one per cent of its gross revenues from 35429

written telephone solicitation contracts with persons who come 35430
within the exemption in division (B)(2) of this section; 35431

(ii) The person does not conduct a prize promotion or offer 35432
the sale of an investment opportunity; and 35433

(iii) The person conducts all telephone solicitation 35434
activities according to sections 310.3, 310.4, and 310.5 of the 35435
telemarketing sales rules adopted by the federal trade commission 35436
in 16 C.F.R. part 310. 35437

~~(21)~~(20) A person that is a licensed real estate salesperson 35438
or broker under Chapter 4735. of the Revised Code when soliciting 35439
within the scope of the person's license; 35440

~~(22)~~(21)(a) Either of the following: 35441

(i) A publisher that solicits the sale of the publisher's 35442
periodical or magazine of general, paid circulation, or a person 35443
that solicits a sale of that nature on behalf of a publisher under 35444
a written agreement directly between the publisher and the person. 35445

(ii) A publisher that solicits the sale of the publisher's 35446
periodical or magazine of general, paid circulation, or a person 35447
that solicits a sale of that nature as authorized by a publisher 35448
under a written agreement directly with a publisher's 35449
clearinghouse provided the person is a resident of Ohio for more 35450
than three years and initiates all telephone solicitations from 35451
Ohio and the person conducts the solicitation and sale in 35452
compliance with 16 C.F.R. Part 310, as adopted by the federal 35453
trade commission. 35454

(b) As used in division (B)~~(22)~~(21) of this section, 35455
"periodical or magazine of general, paid circulation" excludes a 35456
periodical or magazine circulated only as part of a membership 35457
package or given as a free gift or prize from the publisher or 35458
person. 35459

~~(23)~~(22) A person that solicits the sale of food, as defined 35460
in section 3715.01 of the Revised Code, or the sale of products of 35461
horticulture, as defined in section 5739.01 of the Revised Code, 35462
if the person does not intend the solicitation to result in, or 35463
the solicitation actually does not result in, a sale that costs 35464
the purchaser an amount greater than five hundred dollars. 35465

~~(24)~~(23) A funeral director licensed pursuant to Chapter 35466
4717. of the Revised Code when soliciting within the scope of that 35467
license, if both of the following apply: 35468

(a) The solicitation and sale are conducted in compliance 35469
with 16 C.F.R. part 453, as adopted by the federal trade 35470
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 35471
the Revised Code; 35472

(b) The person provides to the purchaser of any preneed 35473
funeral contract a notice that clearly and conspicuously sets 35474
forth the cancellation rights specified in division (G) of section 35475
1107.33 of the Revised Code, and retains a copy of the notice 35476
signed by the purchaser. 35477

~~(25)~~(24) A person, or affiliate thereof, licensed to sell or 35478
issue Ohio instruments designated as travelers checks pursuant to 35479
sections 1315.01 to 1315.11 of the Revised Code. 35480

~~(26)~~(25) A person that solicits sales from its previous 35481
purchasers and meets all of the following requirements: 35482

(a) The solicitation is made under the same business name 35483
that was previously used to sell goods or services to the 35484
purchaser; 35485

(b) The person has, for a period of not less than three 35486
years, operated a business under the same business name as that 35487
used in connection with telephone solicitation; 35488

(c) The person does not conduct a prize promotion or offer 35489

the sale of an investment opportunity; 35490

(d) The person conducts all telephone solicitation activities 35491
according to sections 310.3, 310.4, and 310.5 of the telemarketing 35492
sales rules adopted by the federal trade commission in 16 C.F.R. 35493
part 310; 35494

(e) Neither the person nor any of its principals has been 35495
convicted of, pleaded guilty to, or has entered a plea of no 35496
contest for a felony or a theft offense as defined in sections 35497
2901.02 and 2913.01 of the Revised Code or similar law of another 35498
state or of the United States; 35499

(f) Neither the person nor any of its principals has had 35500
entered against them an injunction or a final judgment or order, 35501
including an agreed judgment or order, an assurance of voluntary 35502
compliance, or any similar instrument, in any civil or 35503
administrative action involving engaging in a pattern of corrupt 35504
practices, fraud, theft, embezzlement, fraudulent conversion, or 35505
misappropriation of property; the use of any untrue, deceptive, or 35506
misleading representation; or the use of any unfair, unlawful, 35507
deceptive, or unconscionable trade act or practice. 35508

~~(27)~~(26) An institution defined as a home health agency in 35509
section 3701.88 of the Revised Code, that conducts all telephone 35510
solicitation activities according to sections 310.3, 310.4, and 35511
310.5 of the telemarketing sales rules adopted by the federal 35512
trade commission in 16 C.F.R. part 310, and engages in telephone 35513
solicitation only within the scope of the institution's 35514
certification, accreditation, contract with the department of 35515
aging, or status as a home health agency; and that meets one of 35516
the following requirements: 35517

(a) The institution is certified as a provider of home health 35518
services under Title XVIII of the Social Security Act, 49 Stat. 35519
620, 42 U.S.C. 301, as amended; and is registered with the 35520

department of health pursuant to division (B) of section 3701.88 35521
of the Revised Code; 35522

(b) The institution is accredited by either the joint 35523
commission on accreditation of health care organizations or the 35524
community health accreditation program; 35525

(c) The institution is providing passport services under the 35526
direction of the Ohio department of aging under section 173.40 of 35527
the Revised Code; 35528

(d) An affiliate of an institution that meets the 35529
requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 35530
section when offering for sale substantially the same goods and 35531
services as those that are offered by the institution that meets 35532
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 35533
section. 35534

~~(28)~~(27) A person licensed to provide a hospice care program 35535
by the department of health pursuant to section 3712.04 of the 35536
Revised Code when conducting telephone solicitations within the 35537
scope of the person's license and according to sections 310.3, 35538
310.4, and 310.5 of the telemarketing sales rules adopted by the 35539
federal trade commission in 16 C.F.R. part 310. 35540

Sec. 4723.06. (A) The board of nursing shall: 35541

(1) Administer and enforce the provisions of this chapter, 35542
including the taking of disciplinary action for violations of 35543
section 4723.28 of the Revised Code, any other provisions of this 35544
chapter, or rules adopted under this chapter; 35545

(2) Develop criteria that an applicant must meet to be 35546
eligible to sit for the examination for licensure to practice as a 35547
registered nurse or as a licensed practical nurse; 35548

(3) Issue and renew nursing licenses and dialysis technician 35549
certificates, as provided in this chapter; 35550

(4) Define the minimum curricula and standards for 35551
educational programs of the schools of professional nursing and 35552
schools of practical nursing in this state; 35553

(5) Survey, inspect, and grant full approval to prelicensure 35554
nursing education programs that meet the standards established by 35555
rules adopted under section 4723.07 of the Revised Code. 35556
Prelicensure nursing education programs include, but are not 35557
limited to, associate degree, baccalaureate degree, diploma, and 35558
doctor of nursing programs leading to initial licensure to 35559
practice nursing as a registered nurse and practical nurse 35560
programs leading to initial licensure to practice nursing as a 35561
licensed practical nurse. 35562

(6) Grant conditional approval, by a vote of a quorum of the 35563
board, to a new prelicensure nursing education program or a 35564
program that is being reestablished after having ceased to 35565
operate, if the program meets and maintains the minimum standards 35566
of the board established by rules adopted under section 4723.07 of 35567
the Revised Code. If the board does not grant conditional 35568
approval, it shall hold an adjudication under Chapter 119. of the 35569
Revised Code to consider conditional approval of the program. If 35570
the board grants conditional approval, at its first meeting after 35571
the first class has completed the program, the board shall 35572
determine whether to grant full approval to the program. If the 35573
board does not grant full approval or if it appears that the 35574
program has failed to meet and maintain standards established by 35575
rules adopted under section 4723.07 of the Revised Code, the board 35576
shall hold an adjudication under Chapter 119. of the Revised Code 35577
to consider the program. Based on results of the adjudication, the 35578
board may continue or withdraw conditional approval, or grant full 35579
approval. 35580

(7) Place on provisional approval, for a period of time 35581
specified by the board, a program that has ceased to meet and 35582

maintain the minimum standards of the board established by rules 35583
adopted under section 4723.07 of the Revised Code. At the end of 35584
the period, the board shall reconsider whether the program meets 35585
the standards and shall grant full approval if it does. If it does 35586
not, the board may withdraw approval, pursuant to an adjudication 35587
under Chapter 119. of the Revised Code. 35588

(8) Approve continuing nursing education programs and courses 35589
under standards established in rules adopted under section 4723.07 35590
of the Revised Code; 35591

(9) Approve peer support programs, under rules adopted under 35592
section 4723.07 of the Revised Code, for nurses and for dialysis 35593
technicians; 35594

(10) Establish a program for monitoring chemical dependency 35595
in accordance with section 4723.35 of the Revised Code; 35596

(11) Establish the practice intervention and improvement 35597
program in accordance with section 4723.282 of the Revised Code; 35598

(12) Issue and renew certificates of authority to practice 35599
nursing as a certified registered nurse anesthetist, clinical 35600
nurse specialist, certified nurse-midwife, or certified nurse 35601
practitioner; 35602

(13) Approve under section 4723.46 of the Revised Code 35603
national certifying organizations for examination and 35604
certification of certified registered nurse anesthetists, clinical 35605
nurse specialists, certified nurse-midwives, or certified nurse 35606
practitioners; 35607

(14) Issue and renew certificates to prescribe in accordance 35608
with sections 4723.48 and 4723.485 of the Revised Code; 35609

(15) Grant approval to the planned classroom and clinical 35610
study required by section 4723.483 of the Revised Code to be 35611
eligible for a certificate to prescribe; 35612

(16) Make an annual edition of the formulary established in 35613
rules adopted under section 4723.50 of the Revised Code available 35614
to the public either in printed form or by electronic means and, 35615
as soon as possible after any revision of the formulary becomes 35616
effective, make the revision available to the public in printed 35617
form or by electronic means; 35618

(17) Provide guidance and make recommendations to the general 35619
assembly, the governor, state agencies, and the federal government 35620
with respect to the regulation of the practice of nursing and the 35621
enforcement of this chapter; 35622

(18) Make an annual report to the governor, which shall be 35623
open for public inspection; 35624

(19) Maintain and have open for public inspection the 35625
following records: 35626

(a) A record of all its meetings and proceedings; 35627

(b) A file of holders of nursing licenses, registrations, and 35628
certificates granted under this chapter and dialysis technician 35629
certificates granted under this chapter. The file shall be 35630
maintained in the form prescribed by rule of the board. 35631

(c) A list of prelicensure nursing education programs 35632
approved by the board; 35633

(d) A list of approved peer support programs for nurses and 35634
dialysis technicians. 35635

(B) The board may fulfill the requirement of division (A)(8) 35636
of this section by authorizing persons who meet the standards 35637
established in rules adopted under section 4723.07 of the Revised 35638
Code to approve continuing nursing education programs and courses. 35639
Persons so authorized shall approve continuing nursing education 35640
programs and courses in accordance with standards established in 35641
rules adopted under section 4723.07 of the Revised Code. 35642

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.

In addition to approving continuing nursing education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules pertaining to the practice of nursing in this state.

Sec. 4723.063. (A) As used in this section:

(1) "Health care facility" means:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

(f) An ambulatory surgical facility;

(g) A freestanding cardiac catheterization facility;

(h) A freestanding birthing center;

(i) A freestanding or mobile diagnostic imaging center; 35671

(j) A freestanding radiation therapy center. 35672

(2) "Nurse education program" means a prelicensure nurse 35673
education program approved by the board of nursing under section 35674
4723.06 of the Revised Code or a postlicensure nurse education 35675
program approved by the board of regents under section 3333.04 of 35676
the Revised Code. 35677

(B) The state board of nursing shall establish and administer 35678
the nurse education grant program. Under the program, the board 35679
shall award joint grants to nurse education programs and health 35680
care facilities. Joint grant recipients shall use the money to 35681
fund partnerships to increase the nurse education program's 35682
enrollment capacity by hiring clinical faculty and preceptors and 35683
purchasing educational equipment and materials. Partnerships may 35684
be developed between one or more nurse education programs and one 35685
or more health care facilities. 35686

In awarding grants, the board shall give preference to 35687
partnerships between nurse education programs and hospitals, 35688
nursing homes, and county homes or county nursing homes, but may 35689
also award grants to fund partnerships between nurse education 35690
programs and other health care facilities. 35691

(C) The board shall adopt rules in accordance with Chapter 35692
119. of the Revised Code establishing the following: 35693

(1) Eligibility requirements for receipt of a grant; 35694

(2) Grant application forms and procedures; 35695

(3) The amounts in which grants may be made and the total 35696
amount that may be jointly awarded to a nurse education program 35697
and health care facility; 35698

(4) A method whereby the board may evaluate the effectiveness 35699
of a partnership between joint recipients in increasing the nurse 35700

education program's enrollment capacity; 35701

(5) The percentage of the money in the fund that must remain 35702
in the fund at all times to maintain a fiscally responsible fund 35703
balance; 35704

(6) Any other matters incidental to the operation of the 35705
program. 35706

(D) From January 1, 2004, until December 31, 2013, the ten 35707
dollars of each biennial nursing license renewal fee collected 35708
under section 4723.08 of the Revised Code shall be dedicated to 35709
the nurse education grant program fund, which is hereby created in 35710
the state treasury. The board shall use money in the fund for 35711
grants awarded under division (A) of this section and for expenses 35712
of administering the grant program. The amount used for 35713
administrative expenses in any year shall not exceed ten per cent 35714
of the amount transferred to the fund in that year. 35715

(E) Each quarter, for the purposes of transferring funds to 35716
the nurse education grant program, the board of nursing shall 35717
certify to the director of budget and management the number of 35718
biennial licenses renewed under this chapter during the preceding 35719
quarter and the amount equal to that number times ten dollars. 35720

(F) Notwithstanding the requirements of section 4743.05 of 35721
the Revised Code, from January 1, 2004, until December 31, 2013, 35722
at the end of each quarter, the director of budget and management 35723
shall transfer from the occupational licensing and regulatory fund 35724
to the nurse education grant program fund the amount certified 35725
under division (E) of this section. 35726

Sec. 4723.08. (A) The board of nursing may impose fees not to 35727
exceed the following limits: 35728

(1) For application for licensure by examination to practice 35729
nursing as a registered nurse or as a licensed practical nurse, 35730

fifty <u>seventy-five</u> dollars;	35731
(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, fifty <u>seventy-five</u> dollars;	35732 35733 35734
(3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;	35735 35736 35737 35738
(4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;	35739 35740 35741
(5) For application for a full dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;	35742 35743 35744
(6) For application for a certificate to prescribe, fifty dollars;	35745 35746
(7) For verification of a nursing license, certificate of authority, or dialysis technician certificate to another jurisdiction, fifteen dollars;	35747 35748 35749
(8) For providing a replacement copy of a nursing license, certificate of authority, or certificate to prescribe , dialysis technician certificate, fifteen intravenous therapy card, or frameable certificate , <u>twenty-five</u> dollars;	35750 35751 35752 35753
(9) For biennial renewal of a nursing license that expires on or before <u>after</u> August 31, 2003, thirty-five but before January 1, 2004 , <u>forty-five</u> dollars;	35754 35755 35756
(10) For biennial renewal of a nursing license that expires on or after September 1, 2003 , forty-five <u>January 1, 2004</u> , <u>sixty-five</u> dollars;	35757 35758 35759
(11) For biennial renewal of a certificate of authority to	35760

practice nursing as a certified registered nurse anesthetist, 35761
clinical nurse specialist, certified nurse mid-wife, or certified 35762
nurse practitioner that expires on or before August 31, 2005, one 35763
hundred dollars; 35764

(12) For biennial renewal of a certificate of authority to 35765
practice nursing as a certified registered nurse anesthetist, 35766
clinical nurse specialist, certified nurse-midwife, or certified 35767
nurse practitioner that expires on or after September 1, 2005, 35768
eighty-five dollars; 35769

(13) For renewal of a certificate to prescribe, fifty 35770
dollars; 35771

(14) For biennial renewal of a dialysis technician 35772
certificate, the amount specified in rules adopted under section 35773
4723.79 of the Revised Code; 35774

(15) For processing a late application for renewal of a 35775
nursing license, certificate of authority, or dialysis technician 35776
certificate, fifty dollars; 35777

(16) For application for authorization to approve continuing 35778
nursing education programs and courses from an applicant 35779
accredited by a national accreditation system for nursing, five 35780
hundred dollars; 35781

(17) For application for authorization to approve continuing 35782
nursing education programs and courses from an applicant not 35783
accredited by a national accreditation system for nursing, one 35784
thousand dollars; 35785

(18) For each year for which authorization to approve 35786
continuing nursing education programs and courses is renewed, one 35787
hundred fifty dollars; 35788

(19) For application for approval to operate a dialysis 35789
training program, the amount specified in rules adopted under 35790

section 4723.79 of the Revised Code;	35791
(20) For reinstatement of a lapsed nursing license,	35792
certificate of authority, or dialysis technician certificate, one	35793
hundred dollars;	35794
(21) For written verification of a nursing license,	35795
certificate of authority, or dialysis technician certificate,	35796
other than verification to another jurisdiction, five dollars. The	35797
board may contract for services pertaining to this verification	35798
process and the collection of the fee, and may permit the	35799
contractor to retain a portion of the fees as compensation, before	35800
any amounts are deposited into the state treasury.	35801
(22) For processing a check returned to the board by a	35802
financial institution as noncollectible, twenty-five dollars;	35803
<u>(23) For issuance of an intravenous therapy card for which a</u>	35804
<u>fee may be charged under section 4723.17 of the Revised Code,</u>	35805
<u>twenty-five dollars;</u>	35806
<u>(24) For out-of-state survey visits of nursing education</u>	35807
<u>programs operating in Ohio, two thousand dollars.</u>	35808
(B) Each quarter, for purposes of transferring funds under	35809
section 4743.05 of the Revised Code to the nurse education	35810
assistance fund created in section 3333.28 of the Revised Code,	35811
the board of nursing shall certify to the director of budget and	35812
management the number of biennial licenses renewed under this	35813
chapter during the preceding quarter and the amount equal to that	35814
number times five dollars.	35815
<u>(C) The board may charge a participant in a board-sponsored</u>	35816
<u>continuing education activity an amount not exceeding fifteen</u>	35817
<u>dollars for each activity.</u>	35818
Sec. 4723.082. All <u>(A) Except as provided in section 4723.062</u>	35819
<u>of the Revised Code and division (B) of this section, all receipts</u>	35820

of the board of nursing, from any source, shall be deposited in 35821
the state treasury to the credit of the occupational licensing and 35822
regulatory fund. ~~All~~ 35823

(B) All receipts from board-sponsored continuing education 35824
activities shall be deposited in the state treasury to the credit 35825
of the special nursing issue fund created by section 4723.062 of 35826
the Revised Code. 35827

(C) All vouchers of the board shall be approved by the board 35828
president or executive director, or both, as authorized by the 35829
board. 35830

Sec. 4723.17. (A) The board of nursing may authorize a 35831
licensed practical nurse to administer to an adult intravenous 35832
therapy authorized by an individual who is authorized to practice 35833
in this state and is acting within the course of the individual's 35834
professional practice, if ~~all of the following are true of the~~ 35835
licensed practical nurse+ 35836

~~(1) The nurse~~ has a current, valid license issued under this 35837
chapter that includes authorization to administer medications and 35838
one of the following is the case: 35839

(1) The nurse has successfully completed, within a practical 35840
nurse prelicensure education program approved by the board or by 35841
another jurisdiction's agency that regulates the practice of 35842
nursing, a course of study that prepares the nurse to safely 35843
perform the intravenous therapy procedures the board may authorize 35844
under this section. To meet this requirement, the course of study 35845
must include all of the following: 35846

(a) Both didactic and clinical components; 35847

(b) Curriculum requirements established in rules the board of 35848
nursing shall adopt in accordance with Chapter 119. of the Revised 35849
Code; 35850

(c) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 35851
35852
35853

(2) The nurse has successfully completed a ~~course in intravenous administration approved by the board that includes both of the following:~~ 35854
35855
35856

~~(a) A minimum of forty hours of training that includes all of the following:~~ 35857
35858

~~(i)(a) The curriculum established by rules adopted by the board and in effect on January 1, 1999;~~ 35859
35860

~~(ii)(b) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;~~ 35861
35862
35863
35864

~~(iii)(c) Any other training or instruction the board considers appropriate.~~ 35865
35866

~~(b)(d) A testing component that includes the successful performance of three venipunctures supervised by a physician or registered nurse in a health care setting~~ requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 35867
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(B) Except as provided in section 4723.171 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board pursuant to division (A) of this section and only if it is performed in accordance with this section. 35872
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A licensed practical nurse authorized by the board to perform intravenous therapy may perform an intravenous therapy procedure only at the direction of one of the following: 35877
35878
35879

(1) A licensed physician, dentist, optometrist, or podiatrist 35880

who, except as provided in division (C)(2) of this section, is 35881
present and readily available at the facility where the 35882
intravenous therapy procedure is performed; 35883

(2) A registered nurse in accordance with division (C) of 35884
this section. 35885

(C)(1) Except as provided in division (C)(2) of this section 35886
and section 4723.171 of the Revised Code, when a licensed 35887
practical nurse authorized by the board to perform intravenous 35888
therapy performs an intravenous therapy procedure at the direction 35889
of a registered nurse, the registered nurse or another registered 35890
nurse shall be readily available at the site where the intravenous 35891
therapy is performed, and before the licensed practical nurse 35892
initiates the intravenous therapy, the registered nurse shall 35893
personally perform an on-site assessment of the individual who is 35894
to receive the intravenous therapy. 35895

(2) When a licensed practical nurse authorized by the board 35896
to perform intravenous therapy performs an intravenous therapy 35897
procedure in a home as defined in section 3721.10 of the Revised 35898
Code, or in an intermediate care facility for the mentally 35899
retarded as defined in section 5111.20 of the Revised Code, at the 35900
direction of a registered nurse or licensed physician, dentist, 35901
optometrist, or podiatrist, a registered nurse shall be on the 35902
premises of the home or facility or accessible by some form of 35903
telecommunication. 35904

(D) No licensed practical nurse shall perform any of the 35905
following intravenous therapy procedures: 35906

(1) Initiating or maintaining any of the following: 35907

(a) Blood or blood components; 35908

(b) Solutions for total parenteral nutrition; 35909

(c) Any cancer therapeutic medication including, but not 35910

limited to, cancer chemotherapy or an anti-neoplastic agent; 35911

(d) Solutions administered through any central venous line or 35912
arterial line or any other line that does not terminate in a 35913
peripheral vein, except that a licensed practical nurse authorized 35914
by the board to perform intravenous therapy may maintain the 35915
solutions specified in division (D)(6)(a) of this section that are 35916
being administered through a central venous line or peripherally 35917
inserted central catheter; 35918

(e) Any investigational or experimental medication. 35919

(2) Initiating intravenous therapy in any vein, except that a 35920
licensed practical nurse authorized by the board to perform 35921
intravenous therapy may initiate intravenous therapy in accordance 35922
with this section in a vein of the hand, forearm, or antecubital 35923
fossa; 35924

(3) Discontinuing a central venous, arterial, or any other 35925
line that does not terminate in a peripheral vein; 35926

(4) Initiating or discontinuing a peripherally inserted 35927
central catheter; 35928

(5) Mixing, preparing, or reconstituting any medication for 35929
intravenous therapy, except that a licensed practical nurse 35930
authorized by the board to perform intravenous therapy may prepare 35931
or reconstitute an antibiotic additive; 35932

(6) Administering medication via the intravenous route, 35933
including all of the following activities: 35934

(a) Adding medication to an intravenous solution or to an 35935
existing infusion, except that a licensed practical nurse 35936
authorized by the board to perform intravenous therapy may do 35937
either of the following: 35938

(i) Initiate an intravenous infusion containing one or more 35939
of the following elements: dextrose 5%; normal saline; lactated 35940

ringers; sodium chloride .45%; sodium chloride 0.2%; sterile 35941
water. 35942

(ii) Hang subsequent containers of the intravenous solutions 35943
specified in division (D)(6)(a) of this section that contain 35944
vitamins or electrolytes, if a registered nurse initiated the 35945
infusion of that same intravenous solution. 35946

(b) Initiating or maintaining an intravenous piggyback 35947
infusion, except that a licensed practical nurse authorized by the 35948
board to perform intravenous therapy may initiate or maintain an 35949
intravenous piggyback infusion containing an antibiotic additive; 35950

(c) Injecting medication via a direct intravenous route, 35951
except that a licensed practical nurse authorized by the board to 35952
perform intravenous therapy may inject heparin or normal saline to 35953
flush an intermittent infusion device or heparin lock including, 35954
but not limited to, bolus or push. 35955

(7) Aspirating any intravenous line to maintain patency; 35956

(8) Changing tubing on any line including, but not limited 35957
to, an arterial line or a central venous line, except that a 35958
licensed practical nurse authorized by the board to perform 35959
intravenous therapy may change tubing on an intravenous line that 35960
terminates in a peripheral vein; 35961

(9) Programming or setting any function of a patient 35962
controlled infusion pump. 35963

(E) Notwithstanding division (D) of this section, at the 35964
direction of a physician or a registered nurse, a licensed 35965
practical nurse authorized by the board to perform intravenous 35966
therapy may perform the following activities for the purpose of 35967
performing dialysis: 35968

(1) The routine administration and regulation of saline 35969
solution for the purpose of maintaining an established fluid plan; 35970

(2) The administration of a heparin dose intravenously;	35971
(3) The administration of a heparin dose peripherally via a fistula needle;	35972 35973
(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.	35974 35975 35976
(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse is authorized by the board to perform intravenous therapy.	35977 35978 35979 35980
(G) <u>The board shall issue an intravenous therapy card to the licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy. A fee for issuing the card shall not be charged under section 4723.08 of the Revised Code if the licensed practical nurse receives the card by meeting the requirements of division (A)(1) of this section. The board shall maintain a registry of the names of licensed practical nurses authorized pursuant to division (A) of this section to perform who hold intravenous therapy cards.</u>	35981 35982 35983 35984 35985 35986 35987 35988 35989
Sec. 4725.01. As used in this chapter:	35990
(A)(1) The "practice of optometry" means the application of optical principles, through technical methods and devices, in the examination of human eyes for the purpose of ascertaining departures from the normal, measuring their functional powers, adapting optical accessories for the aid thereof, and detecting ocular abnormalities that may be evidence of disease, pathology, or injury.	35991 35992 35993 35994 35995 35996 35997
(2) In the case of a licensed optometrist who holds a topical ocular pharmaceutical agents certificate, the "practice of optometry" has the same meaning as in division (A)(1) of this	35998 35999 36000

section, except that it also includes administering topical ocular 36001
pharmaceutical agents for the purposes set forth in division 36002
(A)(1) of this section. 36003

(3) In the case of a licensed optometrist who holds a 36004
therapeutic pharmaceutical agents certificate, the "practice of 36005
optometry" has the same meaning as in divisions (A)(1) and (2) of 36006
this section, except that it also includes employing, applying, 36007
administering, and prescribing instruments, devices, procedures 36008
other than invasive procedures, and therapeutic pharmaceutical 36009
agents for the following purposes: 36010

(a) Examination, investigation, diagnosis, or prevention of 36011
any disease, injury, or other abnormal condition of the visual 36012
system; 36013

(b) Treatment or cure of any disease, injury, or other 36014
abnormal condition of the anterior segment of the human eye. 36015

(B) "Topical ocular pharmaceutical agents" means: 36016

(1) Proparacaine hydrochloride in a potency not exceeding 36017
five-tenths of one per cent ophthalmic solution; 36018

(2) Benoxinate hydrochloride in a potency not exceeding 36019
four-tenths of one per cent ophthalmic solution; 36020

(3) Phenylephrine hydrochloride in a potency not exceeding 36021
two and five-tenths per cent ophthalmic solution; 36022

(4) Hydroxyamphetamine hydrobromide in a potency not 36023
exceeding one per cent ophthalmic solution; 36024

(5) Tropicamide in a potency not exceeding one per cent 36025
ophthalmic solution; 36026

(6) Cyclopentolate in a potency not exceeding one per cent 36027
ophthalmic solution; 36028

(7) Any other topical ocular pharmaceutical agents if the 36029
primary indications for their use are consistent with the purposes 36030

set forth in division (A)(1) of this section, their new drug 36031
application is approved by and the potency in which they may be 36032
used for evaluative purposes has been established by the federal 36033
food and drug administration after January 1, 1983, and their use 36034
for the purposes set forth in division (A)(1) of this section has 36035
been approved by rule of the state vision board ~~of optometry~~. 36036

(C) "Therapeutic pharmaceutical agent" means a topical ocular 36037
pharmaceutical agent or any of the following drugs or dangerous 36038
drugs that is used for examination, investigation, diagnosis, or 36039
prevention of disease, injury, or other abnormal condition of the 36040
visual system or for treatment or cure of disease, injury, or 36041
other abnormal condition of the anterior segment of the human eye 36042
and is an anti-microbial, anti-allergy, anti-glaucoma, topical 36043
anti-inflammatory, or cycloplegic agent, or an analgesic: 36044

(1) A topical ophthalmic preparation; 36045

(2) Oral dosage of any of the following drugs: 36046

(a) Acetazolamide; 36047

(b) Astemizole; 36048

(c) Dichlorphenamide; 36049

(d) Diphenhydramine; 36050

(e) Glycerin in a fifty per cent solution; 36051

(f) Isosorbide in a forty-five per cent solution; 36052

(g) Methazolamide; 36053

(h) Analgesics that may be legally sold without prescription; 36054

(i) Terfenadine; 36055

(j) Ampicillin in a two hundred fifty milligram or five 36056
hundred milligram dosage; 36057

(k) Cefaclor in a two hundred fifty milligram or five hundred 36058
milligram dosage; 36059

(l) Cephalexin in a two hundred fifty milligram or five hundred milligram dosage;	36060 36061
(m) Dicloxacillin in a two hundred fifty milligram or five hundred milligram dosage;	36062 36063
(n) Doxycycline in a fifty milligram or one hundred milligram dosage;	36064 36065
(o) Erythromycin in a two hundred fifty milligram, three hundred and thirty-three milligram, or five hundred milligram dosage;	36066 36067 36068
(p) Penicillin VK in a two hundred fifty milligram or five hundred milligram dosage;	36069 36070
(q) Tetracycline in a two hundred fifty milligram or five hundred milligram dosage.	36071 36072
(3) Any other oral dosage of a drug or dangerous drug that is listed by rule adopted by the state <u>vision</u> board of optometry under section 4725.09 of the Revised Code.	36073 36074 36075
(D) "Drug" and "dangerous drug" have the same meanings as in section 4729.01 of the Revised Code.	36076 36077
(E) "Invasive procedure" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, administering medication by injection, or the removal of intraocular foreign bodies.	36078 36079 36080 36081 36082
(F) "Visual system" means the human eye and its accessory or subordinate anatomical parts.	36083 36084
(G) "Certificate of licensure" means a certificate issued by the state <u>vision</u> board of optometry under <u>division (A) of</u> section 4725.13 of the Revised Code authorizing the holder to practice optometry as provided in division (A)(1) of this section <u>or under</u> <u>division (E) of section 4725.13 of the Revised Code authorizing</u>	36085 36086 36087 36088 36089

the holder to practice optical dispensing. 36090

(H) "Topical ocular pharmaceutical agents certificate" means 36091
a certificate issued by the state vision board ~~of optometry~~ under 36092
division (A) of section 4725.13 of the Revised Code authorizing 36093
the holder to practice optometry as provided in division (A)(2) of 36094
this section. 36095

(I) "Therapeutic pharmaceutical agents certificate" means a 36096
certificate issued by the state vision board ~~of optometry~~ under 36097
division (A)(3) or (4) of section 4725.13 of the Revised Code 36098
authorizing the holder to practice optometry as provided in 36099
division (A)(3) of this section. 36100

(J) "Optical aid" means an instrument or device prescribed by 36101
a physician or optometrist licensed by any state to correct human 36102
vision, including spectacles, eyeglasses, contact lenses, and 36103
accessories. Contact lenses shall be dispensed only in accordance 36104
with a written prescription designated for contact lenses. 36105

(K) "Optical dispensing" means interpreting but not altering 36106
a prescription of a licensed physician or optometrist and 36107
designing, adapting, fitting, or replacing the prescribed optical 36108
aids, pursuant to such prescription, to or for the intended 36109
wearer; duplicating lenses, other than contact lenses, accurately 36110
as to power without a prescription; and duplicating 36111
nonprescription eyewear and parts of eyewear. "Optical dispensing" 36112
does not include selecting frames, transacting a sale, 36113
transferring an optical aid to the wearer after an optician has 36114
completed fitting it, or providing instruction in the general care 36115
and use of an optical aid, including placement, removal, hygiene, 36116
or cleaning. 36117

(L) "Licensed dispensing optician" means a person holding a 36118
current, valid certificate of licensure that authorizes the person 36119
to engage in optical dispensing. Nothing in this chapter shall be 36120

construed to permit a licensed dispensing optician to alter the specifications of a prescription. 36121
36122

(M) "Licensed spectacle dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of optical aids other than contact lenses. 36123
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36125

(N) "Licensed contact lens dispensing optician" means a licensed dispensing optician authorized to engage only in the dispensing of contact lenses. 36126
36127
36128

(O) "Licensed spectacle-contact lens dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of any optical aid. 36129
36130
36131

(P) "Apprentice" means any person dispensing optical aids under the direct supervision of a licensed dispensing optician. 36132
36133

(Q) "Prescription" means the written or verbal directions or instructions as specified by a physician or optometrist licensed by any state for preparing an optical aid for a patient. 36134
36135
36136

(R) "Supervision" means the provision of direction and control through personal inspection and evaluation of work. 36137
36138

(S) "Licensed ocularist" means a person holding a current, valid certificate of licensure issued by the state vision board that authorizes the person to engage in the practice of designing, fabricating, and fitting artificial eyes or prostheses associated with the appearance or function of the human eye. 36139
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Sec. 4725.02. (A) Except as provided in section 4725.26 of the Revised Code, no person shall engage in the practice of optometry, including the determination of the kind of procedure, treatment, or optical accessories needed by a person or the examination of the eyes of any person for the purpose of fitting the same with optical accessories, unless the person holds a current, valid certificate of licensure as an optometrist from the 36144
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state vision board of ~~optometry~~. No person shall claim to be the 36151
lawful holder of such a certificate of licensure when in fact the 36152
person is not such lawful holder, or impersonate any licensed 36153
optometrist. 36154

(B) No optometrist shall administer topical ocular 36155
pharmaceutical agents unless the optometrist holds a valid topical 36156
ocular pharmaceutical agents certificate or therapeutic 36157
pharmaceutical agents certificate and fulfills the other 36158
requirements of this chapter. 36159

(C) No optometrist shall practice optometry as described in 36160
division (A)(3) of section 4725.01 of the Revised Code unless the 36161
optometrist holds a valid therapeutic pharmaceutical agents 36162
certificate. 36163

(D) No optometrist shall personally furnish a therapeutic 36164
pharmaceutical agent to any person, except that a licensed 36165
optometrist who holds a therapeutic pharmaceutical agents 36166
certificate may personally furnish a therapeutic pharmaceutical 36167
agent to a patient if no charge is imposed for the agent or for 36168
furnishing it and the amount furnished does not exceed a 36169
seventy-two hour supply, except that if the minimum available 36170
quantity of the agent is greater than a seventy-two hour supply, 36171
the optometrist may furnish the minimum available quantity. 36172

(E)(1) No person shall engage in optical dispensing or hold 36173
themselves out as being engaged in optical dispensing unless the 36174
person holds a current, valid certificate of licensure from the 36175
state board as a dispensing optician. No person shall claim to be 36176
the lawful holder of such a certificate of licensure when in fact 36177
the person is not such a lawful holder, or impersonate a licensed 36178
dispensing optician. 36179

(2) No person shall engage in the designing, fabricating, and 36180
fitting of an artificial eye or of prostheses associated with the 36181

appearance or function of the human eye unless the person is 36182
licensed as an ocularist by the state board. 36183

(F) After dispensing contact lenses pursuant to the written 36184
prescription of a licensed physician or a licensed optometrist, 36185
each licensed contact lens dispensing optician shall, in writing, 36186
immediately inform the patient to return back to the prescribing 36187
physician or optometrist for final evaluation. 36188

Sec. 4725.03. ~~The governor, with the advice and consent of~~ 36189
~~the senate, shall appoint a~~ There is hereby created the 36190
vision board of optometry consisting of ~~six nonmedical~~ seven 36191
residents of this state, ~~five of whom shall be persons actually~~ 36192
~~engaged in the practice of optometry for five years preceding~~ 36193
~~appointment and one of whom shall be a member of the public at~~ 36194
~~least sixty years of age~~ three appointed by the governor, two 36195
appointed by the speaker of the house of representatives, and two 36196
appointed by the president of the senate. ~~Terms~~ Thereafter, terms 36197
of office shall be ~~five~~ seven years, commencing on the 36198
twenty-sixth day of September and ending on the twenty-fifth day 36199
of September. The governor, speaker of the house of 36200
representatives, and president of the senate, shall each make one 36201
initial appointment for a three-year term. The remaining initial 36202
appointments shall be for six-year terms. Each member shall hold 36203
office from the date of appointment until the end of the term for 36204
which appointed. Any member appointed to fill a vacancy occurring 36205
prior to the expiration of the term for which the member's 36206
predecessor was appointed shall hold office for the remainder of 36207
the term. A member shall continue in office subsequent to the 36208
expiration date of the member's term until the member's successor 36209
takes office, or until a period of sixty days has elapsed, 36210
whichever occurs first. No person shall serve as a member for more 36211
than two terms. 36212

Sec. 4725.04. The state vision board ~~of optometry~~ shall 36213
organize by the election of a president and a secretary from its 36214
members, who shall hold their respective offices for one year. 36215

The board shall hold meetings to perform its regular duties 36216
at least four times each year. At least one of the board's regular 36217
meetings shall be held in Columbus. The board may hold additional 36218
meetings as it considers necessary. The time and place of any 36219
regular or other meeting shall be fixed and published by the board 36220
at least thirty days prior to the date that it is to be held, 36221
except when the meeting to be held is an emergency or special 36222
meeting, in which case the board shall give twenty-four hours' 36223
notice or as much notice as possible under the circumstances. 36224

A majority of the board constitutes a quorum, but a lesser 36225
number may adjourn from time to time. 36226

The office of budget and management shall determine a 36227
location for the office of the board, where all of the board's 36228
permanent records shall be kept. 36229

Sec. 4725.05. The state vision board ~~of optometry~~ shall 36230
employ an executive director, to serve at the pleasure of the 36231
board. Before entering upon the discharge of official duties of 36232
office, the executive director shall give a bond, to be approved 36233
by the board, in the sum of two thousand dollars conditioned for 36234
the faithful discharge of the duties of the office. The premium 36235
for such bond shall be paid as are other expenditures of the 36236
board. The bond, with the approval of the board and oath of office 36237
indorsed thereon, shall be deposited with the secretary of state 36238
and kept in the secretary of state's office. 36239

The board may employ up to ten persons, who may include such 36240
assistants, inspectors, investigators, and clerical help as are 36241
necessary to administer and enforce sections 4725.01 to 4725.34 of 36242

the Revised Code, the expenses thereof to be charged and paid as 36243
other expenditures of the board. The staff shall serve at the 36244
pleasure of the executive director. 36245

Sec. 4725.06. Each member of the state vision board of 36246
~~optometry shall receive an amount fixed pursuant to division (J)~~ 36247
~~of section 124.15 of the Revised Code for each day actually~~ 36248
~~employed in the discharge of the official duties of the member,~~ 36249
~~and the necessary expenses of the member~~ serve without 36250
compensation. 36251

The ~~executive director~~ members of the board shall receive 36252
reimbursement for necessary travel expenses incurred in the 36253
discharge of ~~the executive director's~~ their official duties. 36254

All vouchers of the board shall be approved by the board 36255
president or executive director, or both, as authorized by the 36256
board. 36257

Sec. 4725.07. The state vision board of ~~optometry~~ shall adopt 36258
a seal and certificate of suitable design and shall keep a record 36259
of its proceedings, a register of persons who have received 36260
certificates of licensure, a register of licensed optometrists who 36261
have received topical ocular pharmaceutical agents certificates, a 36262
register of licensed optometrists who have received therapeutic 36263
pharmaceutical agents certificates, and a register of persons who 36264
have been subject to the board's revocation of any of those 36265
certificates. 36266

~~The board shall have an office in Columbus, where all its~~ 36267
~~permanent records shall be kept.~~ The board may make requisition 36268
upon the proper state officials for office rooms and supplies, 36269
including stationery and furniture. All printing and binding 36270
necessary for the work of the board shall be done upon an order 36271
issued by the board through its president and executive director 36272

to the department of administrative services. 36273

Except as provided in division (C) of section 4725.22 and 36274
division (C) of section 4725.23 of the Revised Code, the records 36275
of the board, including its registers, shall be open to public 36276
inspection at all reasonable times. A copy of an entry in such 36277
records, certified by the executive director under the seal of the 36278
board, shall be prima-facie evidence of the facts therein stated. 36279

The board annually, on or before the first day of February, 36280
shall make a report to the governor of all its official acts 36281
during the preceding year, its receipts and disbursements, and a 36282
complete report of the conditions of optometry and of the practice 36283
of optical dispensing in this state. 36284

Sec. 4725.08. In the absence of fraud or bad faith, the state 36285
vision board of optometry, a current or former board member, an 36286
agent of the board, a person formally requested by the board to be 36287
the board's representative, or an employee of the board shall not 36288
be held liable in damages to any person as the result of any act, 36289
omission, proceeding, conduct, or decision related to official 36290
duties undertaken or performed pursuant to sections 4725.01 to 36291
4725.34 of the Revised Code. If any such person asks to be 36292
defended by the state against any claim or action arising out of 36293
any act, omission, proceeding, conduct, or decision related to the 36294
person's official duties, and if the request is made in writing at 36295
a reasonable time before trial and the person requesting defense 36296
cooperates in good faith in the defense of the claim or action, 36297
the state shall provide and pay for the person's defense and shall 36298
pay any resulting judgment, compromise, or settlement. At no time 36299
shall the state pay any part of a claim or judgment that is for 36300
punitive or exemplary damages. 36301

Sec. 4725.09. (A) The state vision board of optometry shall 36302

adopt rules as it considers necessary to govern the practice of 36303
optometry and to administer and enforce sections 4725.01 to 36304
4725.34 of the Revised Code. All rules adopted under sections 36305
4725.01 to 4725.34 of the Revised Code shall be adopted in 36306
accordance with Chapter 119. of the Revised Code. 36307

(B) The board, in consultation with the state board of 36308
pharmacy, shall adopt rules specifying oral dosages of drugs or 36309
dangerous drugs that are therapeutic pharmaceutical agents under 36310
division (C)(3) of section 4725.01 of the Revised Code. 36311

(C) The board shall adopt rules that establish standards to 36312
be met and procedures to be followed with respect to the 36313
delegation by an optometrist of the performance of an optometric 36314
task to a person who is not licensed or otherwise specifically 36315
authorized by the Revised Code to perform the task. The rules 36316
shall permit an optometrist who holds a topical ocular 36317
pharmaceutical agents certificate or therapeutic pharmaceutical 36318
agents certificate to delegate the administration of drugs 36319
included in the optometrist's scope of practice. 36320

The rules adopted under this division shall provide for all 36321
of the following: 36322

(1) On-site supervision when the delegation occurs in an 36323
institution or other facility that is used primarily for the 36324
purpose of providing health care, unless the board established a 36325
specific exception to the on-site supervision requirement with 36326
respect to routine administration of a topical drug; 36327

(2) Evaluation of whether delegation is appropriate according 36328
to the acuity of the patient involved; 36329

(3) Training and competency requirements that must be met by 36330
the person administering the drugs; 36331

(4) Other standards and procedures the board considers 36332
relevant. 36333

(D) The board shall adopt rules as it considers necessary to govern the practice of optical dispensing and to administer and enforce the processing of applications for licensure as licensed dispensing opticians; the scheduling, administration, and supervision of qualifying examinations; the issuance of certificates of licensure to qualified individuals; the revocation and suspension of certificates of licensure; and the maintenance of related records. The board may adopt rules governing the employment of licensed dispensing opticians, the location or number of optical stores, advertising of optical products or services, or the manner in which such products can be displayed.

Sec. 4725.10. (A) The state vision board of ~~optometry~~ shall evaluate schools of optometry and grant its approval to schools that adequately prepare their graduates for the practice of optometry in this state. Approval shall be granted only by an affirmative vote of a majority of the members of the board.

(B) To be approved by the board, a school of optometry shall meet at least the following conditions:

(1) Be accredited by a professional optometric accrediting agency recognized by the board;

(2) Require as a prerequisite to admission to the school's courses in optometry at least two academic years of study with credits of at least sixty semester hours or ninety quarter hours in a college of arts and sciences accredited by a post-secondary education accrediting organization recognized by the board;

(3) Require a course of study of at least four academic years with credits of at least one hundred thirty-four semester hours or two hundred quarter hours.

(C) The board may establish standards for the approval of schools of optometry that are higher than the standards specified

in division (B) of this section. 36364

Sec. 4725.11. (A) The state vision board ~~of optometry~~ shall 36365
accept as the examination that must be passed to receive a license 36366
to practice optometry in this state the examination prepared, 36367
administered, and graded by the national board of examiners in 36368
optometry or an examination prepared, administered, and graded by 36369
another professional testing organization recognized by the board 36370
as being qualified to examine applicants for licenses to practice 36371
optometry in this state. The board shall periodically review its 36372
acceptance of a licensing examination under this section to 36373
determine if the examination and the organization offering it 36374
continue to meet standards the board considers appropriate. 36375

(B) The licensing examination accepted by the board under 36376
this section may be divided into parts and offered as follows: 36377

(1) Part one: Tests in basic science, human biology, ocular 36378
and visual biology, theoretical ophthalmic, physiological optics, 36379
and physiological psychology; 36380

(2) Part two: Tests in clinical science, systemic conditions, 36381
the treatment and management of ocular disease, refractive 36382
oculomotor, sensory integrative conditions, perceptual conditions, 36383
public health, the legal issues regarding the clinical practice of 36384
optometry, and pharmacology; 36385

(3) Part three: Tests in patient care and management, 36386
clinical skills, and the visual recognition and interpretation of 36387
clinical signs. 36388

(C) The licensing examination accepted by the board may be 36389
offered in a manner other than the manner specified in division 36390
(B) of this section, but if offered in another manner, the 36391
examination must test the person sitting for the examination in 36392
the areas specified in division (B) of this section and may test 36393

the person in other areas. 36394

The board may require as a condition of its acceptance of an 36395
examination that the examination cover subject matters in addition 36396
to those specified in division (B) of this section, if the schools 36397
of optometry it approves under section 4725.10 of the Revised Code 36398
include the additional subject matters in their prescribed 36399
curriculum. 36400

(D) The board shall accept direct delivery of the results of 36401
the licensing examination from the testing organization 36402
administering the examination. The results shall be kept as a 36403
permanent part of the board's records maintained pursuant to 36404
section 4725.07 of the Revised Code. 36405

(E) On request of any person seeking to practice optometry in 36406
this state, the board shall provide information on the licensing 36407
examination accepted by the board, including requirements that 36408
must be met to be eligible to sit for the examination and the 36409
dates the examination is offered. 36410

Sec. 4725.12. (A) Each person who desires to commence the 36411
practice of optometry in the state shall file with the executive 36412
director of the state vision board ~~of optometry~~ a written 36413
application for a certificate of licensure and a therapeutic 36414
pharmaceutical agents certificate. The application shall be 36415
accompanied by the fees specified under section 4725.34 of the 36416
Revised Code and shall contain all information the board considers 36417
necessary to determine whether an applicant is qualified to 36418
receive the certificates. The application shall be made upon the 36419
form prescribed by the board and shall be verified by the oath of 36420
the applicant. 36421

(B) To receive a certificate of licensure as an optometrist 36422
and a therapeutic pharmaceutical agents certificate, an applicant 36423
must meet all of the following conditions: 36424

(1) Be at least eighteen years of age;	36425
(2) Be of good moral character;	36426
(3) Complete satisfactorily a course of study of at least six college years;	36427 36428
(4) Graduate from a school of optometry approved by the board under section 4725.10 of the Revised Code;	36429 36430
(5) Pass the licensing examination accepted by the board under section 4725.11 of the Revised Code.	36431 36432
<u>(C)(1) Any person who desires to engage in optical dispensing shall file a properly completed written application for examination with the executive director of the board. The application shall be made on a form provided by the board and shall be accompanied by an examination fee the board shall establish by rule. Applicants shall return the application to the board at least sixty days prior to the date the examination is scheduled to be administered. No person is eligible to take the examination unless they are at least eighteen years of age, of good moral character, free of contagious or infectious disease, and a graduate of an accredited high school of any state or having an education equivalent thereto.</u>	36433 36434 36435 36436 36437 36438 36439 36440 36441 36442 36443 36444
<u>(2) Except as provided in division (C)(3) of this section, each person who desires to dispense optical aids is eligible to take the qualifying examination for such practice, if, in addition to satisfying the criteria of division (C)(1) of this section, the person successfully completed either of the following:</u>	36445 36446 36447 36448 36449
<u>(a) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;</u>	36450 36451 36452 36453 36454

(b) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(3) A registered apprentice or a student in an approved college level program in optical dispensing may take the qualifying examination after completion of one year of the apprenticeship or program but is not eligible for licensure until they have completed the second year of the apprenticeship or program.

(4) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed written application with the board accompanied by the application fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, and experience standards recognized by the board as meeting national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of division (C)(4) of this section.

(D)(1) The board shall examine each applicant eligible for examination under division (C) of this section. The board may provide for the examination of applicants by designing, preparing, and administering the qualifying examinations or by contracting with a testing service that is nationally recognized as being capable of determining competence to dispense optical aids as a licensed spectacle dispensing optician, a licensed contact lens dispensing optician, or a licensed spectacle-contact lens

dispensing optician. Any examination used shall be designed to 36487
measure specific performance requirements, be professionally 36488
constructed and validated, and be independently and objectively 36489
administered and scored, in order to determine the applicant's 36490
competence to dispense optical aids. 36491

(2) The board shall ensure that it, or the testing service 36492
with which it contracts, does all of the following: 36493

(a) Provides public notice as to the date, time, and place 36494
for each qualifying examination at least ninety days prior to the 36495
examination; 36496

(b) Offers each qualifying examination at least twice each 36497
year in Columbus, except as provided by division (D)(3) of this 36498
section; 36499

(c) Provides to each applicant all forms necessary to apply 36500
for examination; 36501

(d) Provides all materials and equipment necessary for the 36502
applicant to take the qualifying examination. 36503

(3) If the number of applicants for any qualifying 36504
examination under this division is less than ten, the board may 36505
postpone the examination. The board or testing service shall 36506
provide the applicant with written notification of the 36507
postponement and of the next date the qualifying examination is 36508
scheduled to be administered. 36509

(4) The board may not limit the number of times that an 36510
applicant may repeat a qualifying examination under this division, 36511
except that, if an applicant fails an examination for a third 36512
time, the board may require that the applicant, prior to retaking 36513
the examination, undergo additional study in the areas of the 36514
examination in which the applicant experienced difficulty. 36515

(E) An applicant for licensure as a licensed dispensing 36516

optician who is licensed or registered in another state shall be 36517
accorded the full privileges of practice within this state, 36518
without the necessity of examination, upon the payment of a 36519
seventy-five dollar fee and the submission of a certified copy of 36520
the license or certificate issued by the other state, if the board 36521
determines that the applicant has the required amount of 36522
experience or education and meets the requirements of division 36523
(C)(1) of this section. 36524

(F) The board shall issue to each person who qualifies for 36525
licensure as a licensed dispensing optician, under its seal, a 36526
certificate of licensure entitling them to practice as a licensed 36527
spectacle dispensing optician, licensed contact lens dispensing 36528
optician, or licensed spectacle-contact lens dispensing optician. 36529
The appropriate certificate of licensure shall be issued no later 36530
than sixty days after the board notifies the applicant of its 36531
approval for licensure. The board shall establish, by rule, a 36532
license fee. 36533

(G) Each licensed dispensing optician shall display the 36534
optician's certificate of licensure in a conspicuous place in the 36535
optician's office or place of business. If a licensed dispensing 36536
optician maintains more than one office or place of business, the 36537
optician shall display a duplicate copy of the certificate at each 36538
location. The board shall issue duplicate copies of the 36539
appropriate certificate of licensure for this purpose upon the 36540
filing of an application form therefor and the payment of a 36541
five-dollar fee for each duplicate copy. 36542

(H) Any licensed dispensing optician may supervise a maximum 36543
of three apprentices who may engage in optical dispensing only 36544
under the supervision of the licensed dispensing optician. A 36545
person serving as an apprentice shall register annually with the 36546
board either on a form provided by the board or in the form of a 36547
statement giving the name and address of the supervising licensed 36548

dispensing optician, the location at which the apprentice will be 36549
employed, and any other information required by the board. Each 36550
registrant shall pay a registration fee of ten dollars. A person 36551
who is gaining experience under the supervision of a licensed 36552
optometrist or ophthalmologist that would qualify them to take the 36553
examination to engage in optical dispensing is not required to 36554
register with the board. 36555

Sec. 4725.13. (A) The state vision board of optometry, by an 36556
affirmative vote of a majority of its members, shall issue 36557
certificates of licensure to practice optometry under its seal as 36558
follows: 36559

(1) Every applicant who, prior to May 19, 1992, passed the 36560
licensing examination then in effect, and who otherwise complies 36561
with sections 4725.01 to 4725.34 of the Revised Code shall receive 36562
from the board a certificate of licensure authorizing the holder 36563
to engage in the practice of optometry as provided in division 36564
(A)(1) of section 4725.01 of the Revised Code. 36565

(2) Every applicant who, prior to May 19, 1992, passed the 36566
general and ocular pharmacology examination then in effect, and 36567
who otherwise complies with sections 4725.01 to 4725.34 of the 36568
Revised Code, shall receive from the board a separate topical 36569
ocular pharmaceutical agents certificate authorizing the holder to 36570
administer topical ocular pharmaceutical agents as provided in 36571
division (A)(2) of section 4725.01 of the Revised Code and in 36572
accordance with sections 4725.01 to 4725.34 of the Revised Code. 36573

(3) Every applicant who holds a valid certificate of 36574
licensure issued prior to May 19, 1992, and meets the requirements 36575
of section 4725.14 of the Revised Code shall receive from the 36576
board a separate therapeutic pharmaceutical agents certificate 36577
authorizing the holder to engage in the practice of optometry as 36578
provided in division (A)(3) of section 4725.01 of the Revised 36579

Code. 36580

(4) Every applicant who, on or after May 19, 1992, passes all 36581
parts of the licensing examination accepted by the board under 36582
section 4725.11 of the Revised Code and otherwise complies with 36583
the requirements of sections 4725.01 to 4725.34 of the Revised 36584
Code shall receive from the board a certificate of licensure 36585
authorizing the holder to engage in the practice of optometry as 36586
provided in division (A)(1) of section 4725.01 of the Revised Code 36587
and a separate therapeutic pharmaceutical agents certificate 36588
authorizing the holder to engage in the practice of optometry as 36589
provided in division (A)(3) of that section. 36590

(B) Each person to whom a certificate is issued by the board 36591
shall keep the certificate displayed in a conspicuous place in the 36592
location at which that person practices optometry and shall 36593
whenever required exhibit the certificate to any member or agent 36594
of the board. If an optometrist practices outside of or away from 36595
the location at which the optometrist's certificate of licensure 36596
is displayed, the optometrist shall deliver to each person 36597
examined or fitted with optical accessories by the optometrist, a 36598
receipt signed by the optometrist in which the optometrist shall 36599
set forth the amounts charged, the optometrist's post-office 36600
address, and the number assigned to the optometrist's certificate 36601
of licensure. The information may be provided as part of a 36602
prescription given to the person. 36603

(C) A person who, on May 19, 1992, holds a valid certificate 36604
of licensure or topical ocular pharmaceutical agents certificate 36605
issued by the board may continue to engage in the practice of 36606
optometry as provided by the certificate of licensure or topical 36607
ocular pharmaceutical agents certificate if the person continues 36608
to comply with sections 4725.01 to 4725.34 of the Revised Code as 36609
required by the certificate of licensure or topical ocular 36610
pharmaceutical agents certificate. 36611

Sec. 4725.15. If the state vision board of ~~optometry~~ receives 36612
notice ~~under division (D) of section 4725.11 of the Revised Code~~ 36613
that an applicant has failed four times the licensing examination 36614
or part of the examination that must be passed pursuant to section 36615
4725.12 or 4725.14 of the Revised Code for a certificate of 36616
licensure as an optometrist, the board shall not give further 36617
consideration to the application until the applicant completes 36618
thirty hours of remedial training approved by the board in the 36619
specific subject area or areas covered by the examination or part 36620
of the examination that was failed. 36621

Sec. 4725.16. (A) Each certificate of licensure, topical 36622
ocular pharmaceutical agents certificate, and therapeutic 36623
pharmaceutical agents certificate issued by the state vision board 36624
~~of optometry~~ shall expire annually on the last day of December, 36625
and may be renewed in accordance with this section and the 36626
standard renewal procedure established under Chapter 4745. of the 36627
Revised Code. 36628

(B) All licensed optometrists shall annually complete 36629
continuing education in subjects relating to the practice of 36630
optometry, to the end that the utilization and application of new 36631
techniques, scientific and clinical advances, and the achievements 36632
of research will assure comprehensive care to the public. The 36633
board shall prescribe by rule the continuing optometric education 36634
that licensed optometrists must complete. The length of study 36635
shall be determined by the board but shall be not less than six 36636
nor more than twenty-five clock hours each year, except that the 36637
board shall prescribe an additional five clock hours of 36638
instruction in pharmacology to be completed by optometrists who 36639
hold topical ocular pharmaceutical agents certificates or 36640
therapeutic pharmaceutical agents certificates. 36641

Unless the continuing education required under this division 36642
is waived or deferred under division (D) of this section, the 36643
continuing education must be completed during the twelve-month 36644
period beginning on the first day of October and ending on the 36645
last day of September. If the board receives notice from a 36646
continuing education program indicating that an optometrist 36647
completed the program after the last day of September, and the 36648
optometrist wants to use the continuing education completed after 36649
that day to renew the license that expires on the last day of 36650
December of that year, the optometrist shall pay the penalty 36651
specified under section 4725.34 of the Revised Code for late 36652
completion of continuing education. 36653

At least once annually, the board shall mail to each licensed 36654
optometrist a list of courses approved in accordance with 36655
standards prescribed by board rule. Upon the request of a licensed 36656
optometrist, the executive director of the board shall supply a 36657
list of additional courses that the board has approved subsequent 36658
to the most recent mailing of the list of approved courses. 36659

(C) Annually, by the first day of November, the board shall 36660
mail to each licensed optometrist a notice regarding license 36661
renewal and include with the notice an application for license 36662
renewal. The application shall be in such form and require such 36663
pertinent professional biographical data as the board may require. 36664
An optometrist seeking to continue to practice optometry shall 36665
file the renewal application with the board. Filing the 36666
application shall serve as notice by the optometrist that the 36667
continuing optometric education requirement has been successfully 36668
completed. 36669

If the board finds that an optometrist has not completed the 36670
required continuing optometric education, the board shall 36671
disapprove the optometrist's application. The board's disapproval 36672
of renewal is effective without a hearing, unless a hearing is 36673

requested pursuant to Chapter 119. of the Revised Code. The board 36674
shall refuse to accept an application for renewal from any 36675
applicant whose license is not in good standing or who is under 36676
disciplinary review pursuant to section 4725.19 of the Revised 36677
Code. Notice of an applicant's failure to qualify for renewal 36678
shall be served upon the applicant by mail, which shall be sent on 36679
or before the fifteenth day of November to the address shown in 36680
the board's records. 36681

(D) In cases of certified illness or undue hardship, the 36682
board may waive or defer for up to twelve months the requirement 36683
of continuing optometric education, except that in such cases the 36684
board may not waive or defer the continuing education in 36685
pharmacology required to be completed by optometrists who hold 36686
topical ocular pharmaceutical agents certificates or therapeutic 36687
pharmaceutical agents certificates. The board shall waive the 36688
requirement of continuing optometric education for any optometrist 36689
who is serving in the armed forces of the United States or who has 36690
received an initial certificate of licensure during the nine-month 36691
period which ended on the last day of September. 36692

(E) The board shall approve all applications for renewal that 36693
are not disapproved or refused under division (C) of this section. 36694
An optometrist whose renewal application has been approved may 36695
renew each certificate held by paying to the treasurer of state 36696
the fees for renewal specified under section 4725.34 of the 36697
Revised Code. On payment of all applicable fees, the board shall 36698
issue a renewal of the optometrist's certificate of licensure, 36699
topical ocular pharmaceutical agents certificate, and therapeutic 36700
pharmaceutical agents certificate, as appropriate. 36701

(F) A notice shall be sent to every licensed optometrist who 36702
fails to file the renewal application provided under division (C) 36703
of this section, at the optometrist's last address, at least one 36704
month in advance of the last day of December, which is the date of 36705

expiration. A second notice shall be sent prior to any action 36706
under division (I) of this section to classify the optometrist's 36707
certificates as delinquent, to every optometrist failing to 36708
respond to the preceding notice. 36709

(G) The failure of an optometrist to apply for license 36710
renewal or the failure to pay the applicable annual renewal fees 36711
on or before the date of expiration, shall automatically work a 36712
forfeiture of the optometrist's authority to practice optometry in 36713
this state. 36714

(H) The board shall accept renewal applications and renewal 36715
fees that are submitted from the first day of January to the last 36716
day of April of the year next succeeding the date of expiration. 36717
An individual who submits such a late renewal application or fee 36718
shall pay the late renewal fee specified in section 4725.34 of the 36719
Revised Code. 36720

(I)(1) If the certificates issued by the board to ~~an~~ 36721
~~individual~~ a licensed optometrist have expired and the ~~individual~~ 36722
optometrist has not filed a complete application during the late 36723
renewal period, the individual's certificates shall be classified 36724
in the board's records as delinquent. 36725

(2) Any optometrist subject to delinquent classification may 36726
submit a written application to the board for reinstatement. For 36727
reinstatement to occur, the applicant must meet all of the 36728
following conditions: 36729

(a) Submit to the board evidence of compliance with board 36730
rules requiring continuing optometric education in a sufficient 36731
number of hours to make up for any delinquent compliance; 36732

(b) Pay the renewal fees for the year in which application 36733
for reinstatement is made and the reinstatement fee specified 36734
under division (A)(8) of section 4725.34 of the Revised Code; 36735

(c) Pass all or part of the licensing examination accepted by 36736

the board under section 4725.11 of the Revised Code as the board 36737
considers appropriate to determine whether the application for 36738
reinstatement should be approved; 36739

(d) If the applicant has been practicing optometry in another 36740
state or country, submit evidence that the applicant's license to 36741
practice optometry in the other state or country is in good 36742
standing. 36743

(3) The board shall approve an application for reinstatement 36744
if the conditions specified in division (I)(2) of this section are 36745
met. An optometrist who receives reinstatement is subject to the 36746
continuing education requirements specified under division (B) of 36747
this section for the year in which reinstatement occurs. 36748

(J) Each licensed dispensing optician annually shall complete 36749
continuing education requirements as follows: 36750

(1) Licensed spectacle dispensing opticians - four hours of 36751
study in spectacle dispensing, approved by the board; 36752

(2) Licensed contact lens dispensing opticians - eight hours 36753
of study in contact lens dispensing, approved by the board; 36754

(3) Licensed spectacle-contact lens dispensing opticians - 36755
courses of study under divisions (J)(1) and (2) of this section. 36756

(K) Annually, by the first day of November, the board shall 36757
mail to each licensed dispensing optician a notice regarding 36758
license renewal and include with the notice an application for 36759
license renewal. The application shall be in such form and require 36760
such pertinent professional biographical data as the board 36761
requires. A licensed dispensing optician seeking to continue to 36762
practice shall file the renewal application with the board. Filing 36763
the application shall serve as notice by the licensed dispensing 36764
optician that the appropriate continuing education requirements 36765
have been successfully completed. If the board finds that a 36766
licensed dispensing optician has not completed the required amount 36767

of continuing education, the board shall disapprove the optician's 36768
application. The board shall establish, by rule, a license renewal 36769
fee. No person who fails to renew their license under this 36770
division shall be required to take a qualifying examination under 36771
division (D) of section 4725.12 of the Revised Code as a condition 36772
of renewal, provided that an application for renewal and proof of 36773
the requisite continuing education hours are submitted within 36774
ninety days from the date the license expired and the applicant 36775
pays the annual renewal fee and a penalty of seventy-five dollars. 36776
The board may provide, by rule, for an extension of the grace 36777
period for licensed dispensing opticians who are serving in the 36778
armed forces of the United States and for waiver of the continuing 36779
education requirements or the penalty in cases of hardship or 36780
illness. 36781

(L) The board shall approve continuing education programs for 36782
licensed dispensing opticians and shall adopt rules as necessary 36783
for approving the programs. Approved programs shall be scheduled, 36784
sponsored, and conducted in accordance with the board's rules. 36785

Sec. 4725.17. (A) An optometrist who intends not to continue 36786
practicing optometry in this state due to retirement or a decision 36787
to practice in another state or country may apply to the state 36788
vision board of optometry to have the certificates issued to the 36789
optometrist placed on inactive status. Application for inactive 36790
status shall consist of a written notice to the board of the 36791
optometrist's intention to no longer practice in this state. The 36792
board may not accept an application submitted after the 36793
applicant's certificate of licensure and any other certificates 36794
have expired. The board may approve an application for placement 36795
on inactive status only if the applicant's certificates are in 36796
good standing and the applicant is not under disciplinary review 36797
pursuant to section 4725.19 of the Revised Code. 36798

(B) An individual whose certificates have been placed on 36799
inactive status may submit a written application to the board for 36800
reinstatement. For reinstatement to occur, the applicant must meet 36801
all of the following conditions: 36802

(1) Pay the renewal fees for the year in which application 36803
for reinstatement is made and the reinstatement fee specified 36804
under division (A)(9) of section 4725.34 of the Revised Code; 36805

(2) Pass all or part of the licensing examination accepted by 36806
the board under section 4725.11 of the Revised Code as the board 36807
considers appropriate, if the board considers examination 36808
necessary to determine whether the application for reinstatement 36809
should be approved; 36810

(3) If the applicant has been practicing optometry in another 36811
state or country, submit evidence of being in the active practice 36812
of optometry in the other state or country and evidence that the 36813
applicant's license to practice in the other state or country is 36814
in good standing. 36815

(C) The board shall approve an application for reinstatement 36816
if the conditions specified in division (B) of this section are 36817
met. An optometrist who receives reinstatement is subject to the 36818
continuing education requirements specified under section 4725.16 36819
of the Revised Code for the year in which reinstatement occurs. 36820

Sec. 4725.171. (A) An optometrist who discontinued practicing 36821
optometry in this state due to retirement or a decision to 36822
practice in another state or country before the state vision board 36823
~~of optometry~~ accepted applications for placement of certificates 36824
to practice on inactive status pursuant to section 4725.17 of the 36825
Revised Code may apply to the board to have the optometrist's 36826
certificates reinstated. The board may accept an application for 36827
reinstatement only if, at the time the optometrist's certificates 36828

expired, the certificates were in good standing and the 36829
optometrist was not under disciplinary review by the board. 36830
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(B) For reinstatement to occur, the applicant must meet all 36832
of the following conditions: 36833

(1) Pay the renewal fees for the year in which application 36834
for reinstatement is made and the reinstatement fee specified 36835
under division (A)(10) of section 4725.34 of the Revised Code; 36836

(2) Pass all or part of the licensing examination accepted by 36837
the board under section 4725.11 of the Revised Code as the board 36838
considers appropriate, if the board considers examination 36839
necessary to determine whether the application for reinstatement 36840
should be approved; 36841

(3) If the applicant has been practicing optometry in another 36842
state or country, submit evidence of being in the active practice 36843
of optometry in the other state or country and evidence that the 36844
applicant's license to practice in the other state or country is 36845
in good standing. 36846

(C) The board shall approve an application for reinstatement 36847
if the conditions specified in division (B) of this section are 36848
met. An optometrist who receives reinstatement is subject to the 36849
continuing education requirements specified under section 4725.16 36850
of the Revised Code for the year in which reinstatement occurs. 36851

Sec. 4725.18. (A) The state vision board ~~of optometry~~ may 36852
issue a certificate of licensure as an optometrist and therapeutic 36853
pharmaceutical agents certificate to an individual licensed as an 36854
optometrist by another state if the board determines that the 36855
other state has standards for the practice of optometry that are 36856
at least as stringent as the standards established under sections 36857
4725.01 to 4725.34 of the Revised Code and the other state 36858

similarly grants licenses to practice optometry to individuals who 36859
hold certificates of licensure issued by the board. 36860

(B) To receive a certificate of licensure and therapeutic 36861
pharmaceutical agents certificate under this section, an applicant 36862
must meet all of the following conditions: 36863

(1) Hold a license to practice optometry from the other state 36864
that is in good standing, evidenced by submission of a letter from 36865
the licensing agency of the other state; 36866

(2) Have been actively engaged in the practice of optometry, 36867
including the use of therapeutic pharmaceutical agents, for at 36868
least three years immediately preceding making application under 36869
this section; 36870

(3) Pay the application fees established under section 36871
4725.34 of the Revised Code for a certificate of licensure and 36872
therapeutic pharmaceutical agents certificate; 36873

(4) Submit all transcripts, reports, or other information the 36874
board requires; 36875

(5) Pass all or part of the licensing examination accepted by 36876
the board under section 4725.11 of the Revised Code, if the board 36877
determines that testing is necessary to determine whether the 36878
applicant's qualifications are sufficient for issuance of a 36879
certificate of licensure and therapeutic pharmaceutical agents 36880
certificate under this section. 36881

(C) If the applicant meets the conditions specified in 36882
division (B) of this section and the board has not previously 36883
denied issuance of a license to the applicant, the board may, by 36884
an affirmative vote of a majority of its members, issue to the 36885
applicant a certificate of licensure as an optometrist and 36886
therapeutic pharmaceutical agents certificate. 36887

Sec. 4725.19. (A) In accordance with Chapter 119. of the 36888

Revised Code and by an affirmative vote of a majority of its members, the state vision board ~~of optometry~~, for any of the reasons specified in division (B) of this section, shall refuse to grant a certificate of licensure to an applicant and may, with respect to a licensed optometrist or dispensing optician, do one or more of the following:

(1) Suspend the operation of any certificate of licensure, topical ocular pharmaceutical agents certificate, or therapeutic pharmaceutical agents certificate, or all certificates granted by it to the optometrist or dispensing optician;

(2) Permanently revoke any or all of the certificates;

(3) Limit or otherwise place restrictions on any or all of the certificates;

(4) Reprimand the optometrist or dispensing optician;

(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.

(B) The sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:

(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;

(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry or optical dispensing;

(4) Being at any time guilty of a felony, regardless of the

jurisdiction in which the act was committed;	36919
(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;	36920 36921 36922
(6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;	36923 36924 36925
(7) Engaging in the practice of optometry as provided in division (A)(1), (2), or (3) of section 4725.01 of the Revised Code <u>or optical dispensing</u> when the certificate authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate;	36926 36927 36928 36929 36930
(8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees;	36931 36932 36933 36934
(9) Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry <u>or optical dispensing</u> as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established;	36935 36936 36937 36938 36939
(10) Failing to maintain comprehensive patient records;	36940
(11) Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public;	36941 36942 36943
(12) Being addicted to the use of alcohol, stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to hinder or diminish the performance of the duties included in the person's practice of optometry <u>or optical dispensing</u> ;	36944 36945 36946 36947 36948

(13) Engaging in the practice of optometry as provided in 36949
division (A)(2) or (3) of section 4725.01 of the Revised Code 36950
without authority to do so or, if authorized, in a manner 36951
inconsistent with the authority granted; 36952

(14) Failing to make a report to the board as required by 36953
division (A) of section 4725.21 or section 4725.31 of the Revised 36954
Code; 36955

(15) Soliciting patients from door to door or establishing 36956
temporary offices, in which case the board shall suspend all 36957
certificates held by the optometrist or licensed dispensing 36958
optician; 36959

(16) Except as provided in division (D) of this section: 36960

(a) Waiving the payment of all or any part of a deductible or 36961
copayment that a patient, pursuant to a health insurance or health 36962
care policy, contract, or plan that covers optometric services or 36963
the services of a licensed dispensing optician, would otherwise be 36964
required to pay if the waiver is used as an enticement to a 36965
patient or group of patients to receive health care services from 36966
that optometrist or dispensing optician. 36967

(b) Advertising that the optometrist or dispensing optician 36968
will waive the payment of all or any part of a deductible or 36969
copayment that a patient, pursuant to a health insurance or health 36970
care policy, contract, or plan that covers ~~optometric~~ their 36971
services, would otherwise be required to pay. 36972

(17) Optical dispensing without the prescription of a 36973
licensed physician or licensed optometrist, but this shall not 36974
prohibit a dispensing optician from the duplication or replacement 36975
of previously prepared optical aids, except that contact lenses 36976
shall not be duplicated or replaced without a written 36977
prescription; 36978

(18) Paying or offering to pay a rebate or commission of any nature, directly or indirectly, as a licensed dispensing optician, or offering any other thing of value to a physician or licensed optometrist, for a referral of patients. 36979
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(C) Any person who is the holder of a certificate of licensure, or who is an applicant for a certificate of licensure against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board in accordance with Chapter 119. of the Revised Code. 36983
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(D) Sanctions shall not be imposed under division (B)(16) of this section against any optometrist or dispensing optician who waives deductibles and copayments: 36988
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(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request. 36991
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(2) For professional services rendered by an optometrist to any other optometrist licensed by the board, to the extent allowed by sections 4725.01 to 4725.34 of the Revised Code and the rules of the board. 36996
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Sec. 4725.20. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state vision board ~~of optometry~~ 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 or certificate issued by the board under this chapter. 37000
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Sec. 4725.21. (A) If an optometrist licensed by the state vision board ~~of optometry~~ has reason to believe that another optometrist licensed currently or previously by the board has 37006
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engaged in any course of treatment or other services to a patient 37009
that constitutes unprofessional conduct under section 4725.19 of 37010
the Revised Code, or has an addiction subject to board action 37011
under section 4725.19 of the Revised Code, the optometrist shall 37012
make a report to the board. 37013

(B) Any person may report to the board in a signed writing 37014
any information that the person may have that appears to show a 37015
violation of any provision of sections 4725.01 to 4725.34 of the 37016
Revised Code or the rules adopted under those sections. 37017

(C) Each complaint or allegation of a violation received by 37018
the board shall be assigned a case number and shall be recorded by 37019
the board. 37020

(D) In the absence of fraud or bad faith, no person who 37021
reports to the board under this section or testifies in any 37022
adjudication conducted under Chapter 119. of the Revised Code 37023
shall be liable to any person for damages in a civil action as a 37024
result of the report or testimony. 37025

Sec. 4725.22. (A) Each insurer providing professional 37026
liability insurance to an optometrist licensed under this chapter, 37027
or any other entity that seeks to indemnify the professional 37028
liability of an optometrist licensed under this chapter, shall 37029
notify the state vision board ~~of optometry~~ within thirty days 37030
after the final disposition of a claim for damages. The notice 37031
shall contain the following information: 37032

(1) The name and address of the person submitting the 37033
notification; 37034

(2) The name and address of the insured who is the subject of 37035
the claim; 37036

(3) The name of the person filing the written claim; 37037

(4) The date of final disposition; 37038

(5) If applicable, the identity of the court in which the 37039
final disposition of the claim took place. 37040

(B) Each optometrist licensed under this chapter shall notify 37041
the board within thirty days of receipt of the final disposition 37042
of a claim for damages or any action involving malpractice. The 37043
optometrist shall notify the board by registered mail and shall 37044
provide all reports and other information required by the board. 37045

(C) Information received under this section is not a public 37046
record for purposes of section 149.43 of the Revised Code and 37047
shall not be released except as otherwise required by law or a 37048
court of competent jurisdiction. 37049

Sec. 4725.23. (A) The state vision board of ~~optometry~~ shall 37050
investigate evidence that appears to show that a person has 37051
violated any provision of sections 4725.01 to 4725.34 of the 37052
Revised Code or any rule adopted under those sections. 37053
Investigations of alleged violations shall be supervised by the 37054
member of the board appointed by the board to act as the 37055
supervising member of investigations. The supervising member shall 37056
not participate in the final vote that occurs in an adjudication 37057
of the case. 37058

(B) In investigating a possible violation, the board may 37059
administer oaths, order the taking of depositions, issue 37060
subpoenas, and compel the attendance of witnesses and production 37061
of books, accounts, papers, records, documents, and testimony. A 37062
subpoena for patient record information shall not be issued 37063
without consultation with the attorney general's office and 37064
approval of the secretary of the board and the board's supervising 37065
member of investigations. Before issuance of a subpoena for 37066
patient record information, the secretary and supervising member 37067
shall determine whether there is probable cause to believe that 37068
the complaint filed alleges a violation of sections 4725.01 to 37069

4725.34 of the Revised Code or any rule adopted under those 37070
sections and that the records sought are relevant to the alleged 37071
violation and material to the investigation. The subpoena may 37072
apply only to records that cover a reasonable period of time 37073
surrounding the alleged violation. 37074

On failure to comply with any subpoena issued by the board 37075
and after reasonable notice to the person being subpoenaed, the 37076
board may move for an order compelling the production of persons 37077
or records pursuant to the Rules of Civil Procedure. 37078

A subpoena issued by the board may be served by a sheriff, 37079
the sheriff's deputy, or a board employee designated by the board. 37080
Service of a subpoena issued by the board may be made by 37081
delivering a copy of the subpoena to the person named therein, 37082
reading it to the person, or leaving it at the person's usual 37083
place of residence. When the person being served is an optometrist 37084
or dispensing optician licensed under ~~by~~ this chapter, service of 37085
the subpoena may be made by certified mail, restricted delivery, 37086
return receipt requested, and the subpoena shall be deemed served 37087
on the date delivery is made or the date the optometrist or 37088
dispensing optician refuses to accept delivery. 37089

Each witness who appears before the board in obedience to a 37090
subpoena shall receive the fees and mileage provided for witnesses 37091
in civil cases in the courts of common pleas. 37092

(C) Information received by the board pursuant to an 37093
investigation is confidential and not subject to discovery in any 37094
civil action. 37095

The board shall conduct all investigations and proceedings in 37096
a manner that protects the confidentiality of patients and persons 37097
who file complaints with the board. The board shall not make 37098
public the names or any other identifying information about 37099
patients or complainants unless proper consent is given. 37100

Sec. 4725.24. If the secretary of the state vision board of 37101
optometry and the board's supervising member of investigations 37102
determine that there is clear and convincing evidence that an 37103
optometrist or licensed dispensing optician has violated division 37104
(B) of section 4725.19 of the Revised Code and that the 37105
optometrist's or dispensing optician's continued practice presents 37106
a danger of immediate and serious harm to the public, they may 37107
recommend that the board suspend without a prior hearing the 37108
optometrist's or dispensing optician's certificate of licensure 37109
and any other certificates held by the optometrist or dispensing 37110
optician. Written allegations shall be prepared for consideration 37111
by the full board. 37112

The board, upon review of those allegations and by an 37113
affirmative vote of three members other than the secretary and 37114
supervising member may order the suspension without a prior 37115
hearing. A telephone conference call may be utilized for reviewing 37116
the allegations and taking the vote on the summary suspension. 37117

The board shall issue a written order of suspension by 37118
certified mail or in person in accordance with section 119.07 of 37119
the Revised Code. The order shall not be subject to suspension by 37120
the court during pendency of any appeal filed under section 119.12 37121
of the Revised Code. If the individual subject to the summary 37122
suspension requests an adjudicatory hearing by the board, the date 37123
set for the hearing shall be within fifteen days, but not earlier 37124
than seven days, after the individual requests the hearing, unless 37125
otherwise agreed to by both the board and the individual. 37126

Any summary suspension imposed under this division shall 37127
remain in effect, unless reversed on appeal, until a final 37128
adjudicative order issued by the board pursuant to section 4725.19 37129
of the Revised Code and Chapter 119. of the Revised Code becomes 37130
effective. The board shall issue its final adjudicative order 37131

within sixty days after completion of its hearing. A failure to 37132
issue the order within sixty days shall result in dissolution of 37133
the summary suspension order but shall not invalidate any 37134
subsequent, final adjudicative order. 37135

Sec. 4725.26. ~~(A)~~ Division (A) of section 4725.02 of the 37136
Revised Code does not apply to the following: 37137

~~(A)(1)~~ Physicians authorized to practice medicine and surgery 37138
or osteopathic medicine and surgery under Chapter 4731. of the 37139
Revised Code; 37140

~~(B)(2)~~ Persons who sell optical accessories but do not assume 37141
to adapt them to the eye, and neither practice nor profess to 37142
practice optometry; 37143

~~(C)(3)~~ An instructor in a school of optometry that is located 37144
in this state and approved by the state vision board ~~of optometry~~ 37145
under section 4725.10 of the Revised Code who holds a valid 37146
current license to practice optometry from a licensing body in 37147
another jurisdiction and limits the practice of optometry to the 37148
instruction of students enrolled in the school. 37149

~~(D)(4)~~ A student at a school of optometry located in this 37150
state and approved by the board under section 4725.10 of the 37151
Revised Code while enrolled in an optometry training program and 37152
acting under the direct, personal supervision and control of an 37153
optometrist licensed by the board or authorized to practice 37154
pursuant to division ~~(C)(A)(3)~~ of this section. 37155

~~(E)(5)~~ An individual who is licensed or otherwise 37156
specifically authorized by the Revised Code to engage in an 37157
activity that is included in the practice of optometry. 37158

~~(F)(6)~~ An individual who is not licensed or otherwise 37159
specifically authorized by the Revised Code to engage in an 37160
activity that is included in the practice of optometry, but is 37161

acting pursuant to the rules for delegation of optometric tasks	37162
adopted under section 4725.09 of the Revised Code.	37163
<u>(B) Division (E)(1) of section 4725.02 of the Revised Code</u>	37164
<u>does not apply to:</u>	37165
<u>(1) A physician authorized under Chapter 4731. of the Revised</u>	37166
<u>Code to practice medicine and surgery or osteopathic medicine and</u>	37167
<u>surgery, or to persons in the employment and under the supervision</u>	37168
<u>of a physician at the physician's office;</u>	37169
<u>(2) An optometrist licensed under this chapter, or to persons</u>	37170
<u>in the employment and under the supervision of an optometrist at</u>	37171
<u>the optometrist's office.</u>	37172
<u>(C) Nothing in this chapter prevents or restricts any</u>	37173
<u>individual, firm, or corporation from employing, or engaging in</u>	37174
<u>optical dispensing through, persons licensed as dispensing</u>	37175
<u>opticians under this chapter.</u>	37176
Sec. 4725.27. The testimony and reports of an optometrist	37177
licensed by the state <u>vision</u> board of optometry under this chapter	37178
shall be received by any state, county, municipal, school	37179
district, or other public board, body, agency, institution, or	37180
official and by any private educational or other institution	37181
receiving public funds as competent evidence with respect to any	37182
matter within the scope of the practice of optometry. No such	37183
board, body, agency, official, or institution shall interfere with	37184
any individual's right to a free choice of receiving services from	37185
either an optometrist or a physician. No such board, body, agency,	37186
official, or institution shall discriminate against an optometrist	37187
performing procedures that are included in the practice of	37188
optometry as provided in division (A)(2) or (3) of section 4725.01	37189
of the Revised Code if the optometrist is licensed under this	37190
chapter to perform those procedures.	37191

Sec. 4725.28. (A) As used in this section, "supplier" means 37192
any person who prepares or sells optical accessories or other 37193
vision correcting items, devices, or procedures. 37194

(B) A licensed optometrist, on completion of a vision 37195
examination and diagnosis, shall give each patient for whom the 37196
optometrist prescribes any vision correcting item, device, or 37197
procedure, one copy of the prescription, without additional charge 37198
to the patient. The prescription shall include the following: 37199

(1) The date of its issuance; 37200

(2) Sufficient information to enable the patient to obtain 37201
from the supplier of the patient's choice, the optical accessory 37202
or other vision correcting item, device, or procedure that has 37203
been prescribed. 37204

(C) Any supplier who fills a prescription for contact lenses 37205
furnished by an optometrist shall furnish the patient with written 37206
recommendations to return to the prescribing optometrist for 37207
evaluation of the contact lens fitting. 37208

(D) Any supplier, including an optometrist who is a supplier, 37209
may advertise to inform the general public of the price that the 37210
supplier charges for any vision correcting item, device, or 37211
procedure. Any such advertisement shall specify the following: 37212

(1) Whether the advertised item includes an eye examination; 37213

(2) In the case of lenses, whether the price applies to 37214
single-vision or multifocal lenses; 37215

(3) In the case of contact lenses, whether the price applies 37216
to rigid or soft lenses and whether there is an additional charge 37217
related to the fitting and determination of the type of contact 37218
lenses to be worn that is not included in the price of the eye 37219
examination. 37220

(E) The state vision board ~~of optometry~~ shall not adopt any 37221
rule that restricts the right to advertise as permitted by 37222
division (D) of this section. 37223

(F) Any municipal corporation code, ordinance, or regulation 37224
or any township resolution that conflicts with a supplier's right 37225
to advertise as permitted by division (D) of this section is 37226
superseded by division (D) of this section and is invalid. A 37227
municipal corporation code, ordinance, or regulation or a township 37228
resolution conflicts with division (D) of this section if it 37229
restricts a supplier's right to advertise as permitted by division 37230
(D) of this section. 37231

Sec. 4725.29. (A) As used in this section: 37232

(1) "Regional advertisement" means an advertisement published 37233
in more than one metropolitan statistical area in this state or 37234
broadcast by radio or television stations in more than one 37235
metropolitan statistical area in this state. 37236

(2) "National advertisement" means an advertisement published 37237
in one or more periodicals or broadcast by one or more radio or 37238
television stations in this state and also published in one or 37239
more periodicals or broadcast by one or more radio or television 37240
stations in another state. 37241

(B) The state vision board ~~of optometry~~ shall not require any 37242
person who sells optical accessories at more than one location to 37243
list in any regional or national advertisement the name of the 37244
licensed optometrist practicing at a particular location, provided 37245
that in addition to the requirement in division (B) of section 37246
4725.13 of the Revised Code, the name of the optometrist is 37247
prominently displayed at the location. 37248

Sec. 4725.31. An optometrist licensed by the state vision 37249
board ~~of optometry~~ shall promptly report to the board any instance 37250

of a clinically significant drug-induced side effect in a patient 37251
due to the optometrist's administering, employing, applying, or 37252
prescribing a topical ocular or therapeutic pharmaceutical agent 37253
to or for the patient. The board, by rule adopted in accordance 37254
with Chapter 119. of the Revised Code, shall establish reporting 37255
procedures and specify the types of side effects to be reported. 37256
The information provided to the board shall not include the name 37257
of or any identifying information about the patient. 37258

Sec. 4725.33. (A) An individual whom the state vision board 37259
~~of optometry~~ licenses to engage in the practice of optometry may 37260
render the professional services of an optometrist within this 37261
state through a corporation formed under division (B) of section 37262
1701.03 of the Revised Code, a limited liability company formed 37263
under Chapter 1705. of the Revised Code, a partnership, or a 37264
professional association formed under Chapter 1785. of the Revised 37265
Code. This division does not preclude an optometrist from 37266
rendering professional services as an optometrist through another 37267
form of business entity, including, but not limited to, a 37268
nonprofit corporation or foundation, or in another manner that is 37269
authorized by or in accordance with this chapter, another chapter 37270
of the Revised Code, or rules of the state vision board ~~of~~ 37271
~~optometry~~ adopted pursuant to this chapter. 37272

(B) A corporation, limited liability company, partnership, or 37273
professional association described in division (A) of this section 37274
may be formed for the purpose of providing a combination of the 37275
professional services of the following individuals who are 37276
licensed, certificated, or otherwise legally authorized to 37277
practice their respective professions: 37278

(1) Optometrists who are authorized to practice optometry 37279
under Chapter 4725. of the Revised Code; 37280

(2) Chiropractors who are authorized to practice chiropractic 37281

under Chapter 4734. of the Revised Code;	37282
(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;	37283 37284
(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;	37285 37286 37287
(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;	37288 37289
(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;	37290 37291 37292
(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;	37293 37294
(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.	37295 37296 37297 37298
This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry.	37299 37300 37301 37302 37303 37304 37305 37306 37307 37308
Sec. 4725.34. (A) The state <u>vision</u> board of optometry shall charge the following nonrefundable fees:	37309 37310
(1) One hundred ten dollars for application for a certificate	37311

of licensure;	37312
(2) Twenty-five dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;	37313 37314 37315 37316
(3) One hundred ten dollars for renewal of a certificate of licensure;	37317 37318
(4) Twenty-five dollars for renewal of a topical ocular pharmaceutical agents certificate;	37319 37320
(5) Twenty-five dollars for renewal of a therapeutic pharmaceutical agents certificate;	37321 37322
(6) Seventy-five dollars for late completion of continuing optometric education;	37323 37324
(7) Seventy-five dollars for late renewal of one or more certificates that have expired;	37325 37326
(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;	37327 37328 37329 37330
(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;	37331 37332 37333
(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;	37334 37335
(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the board and providing rosters of currently licensed optometrists. Such fees shall be established at a regular meeting of the board and shall comply with any applicable guidelines or policies set by the department of administrative services or the office of budget	37336 37337 37338 37339 37340 37341

and management. 37342

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in division (A) of this section if the fees do not exceed the amounts specified by more than fifty per cent. 37343
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(C) All receipts of the board, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. 37347
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Sec. 4725.99. (A) Whoever violates section 4725.02 of the Revised Code shall be fined not more than five hundred dollars for a first offense; for each subsequent offense such person shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned not less than six months nor more than one year. 37350
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~~(B) Whoever violates section 4725.41 of the Revised Code is guilty of a misdemeanor of the second degree for a first offense, and a misdemeanor of the first degree for each subsequent offense.~~ 37356
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~~(C) Whoever violates section 4725.55 or 4725.56 of the Revised Code is guilty of a misdemeanor of the second degree.~~ 37359
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~~(D)~~ Whoever violates division (A) of section 4725.21 of the Revised Code is guilty of a minor misdemeanor for a first offense; for each subsequent offense, such person is guilty of a misdemeanor of the second degree. Any violation constitutes a separate offense on each successive day continued. 37361
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~~(E)~~ (C) Whoever violates section 4725.32 of the Revised Code is guilty of a misdemeanor of the third degree. 37366
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~~(F)~~ (D) Whoever violates section 4725.22 of the Revised Code is guilty of a minor misdemeanor for a first offense; for each subsequent offense, such person shall be fined up to one thousand dollars. 37368
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Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code: 37372
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(A)(1) "Clinical laboratory services" means either of the following: 37374
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(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; 37376
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(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. 37380
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(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens. 37383
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(B) "Designated health services" means any of the following: 37385

(1) Clinical laboratory services; 37386

(2) Home health care services; 37387

(3) Outpatient prescription drugs. 37388

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and: 37389
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(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use; 37391
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(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. 37394
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(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal 37398
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government, this state, or a political subdivision of this state, 37400
including the medicare program established under Title XVIII of 37401
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37402
as amended, health care coverage for public employees, health care 37403
benefits administered by the bureau of workers' compensation, the 37404
medical assistance program established under Chapter 5111. of the 37405
Revised Code, and the disability ~~assistance~~ medical assistance 37406
program established under Chapter 5115. of the Revised Code. 37407

(E)(1) "Group practice" means a group of two or more holders 37408
of certificates under this chapter legally organized as a 37409
partnership, professional corporation or association, limited 37410
liability company, foundation, nonprofit corporation, faculty 37411
practice plan, or similar group practice entity, including an 37412
organization comprised of a nonprofit medical clinic that 37413
contracts with a professional corporation or association of 37414
physicians to provide medical services exclusively to patients of 37415
the clinic in order to comply with section 1701.03 of the Revised 37416
Code and including a corporation, limited liability company, 37417
partnership, or professional association described in division (B) 37418
of section 4731.226 of the Revised Code formed for the purpose of 37419
providing a combination of the professional services of 37420
optometrists who are licensed, certificated, or otherwise legally 37421
authorized to practice optometry under Chapter 4725. of the 37422
Revised Code, chiropractors who are licensed, certificated, or 37423
otherwise legally authorized to practice chiropractic under 37424
Chapter 4734. of the Revised Code, psychologists who are licensed, 37425
certificated, or otherwise legally authorized to practice 37426
psychology under Chapter 4732. of the Revised Code, registered or 37427
licensed practical nurses who are licensed, certificated, or 37428
otherwise legally authorized to practice nursing under Chapter 37429
4723. of the Revised Code, pharmacists who are licensed, 37430
certificated, or otherwise legally authorized to practice pharmacy 37431
under Chapter 4729. of the Revised Code, physical therapists who 37432

are licensed, certificated, or otherwise legally authorized to 37433
practice physical therapy under sections 4755.40 to 4755.53 of the 37434
Revised Code, mechanotherapists who are licensed, certificated, or 37435
otherwise legally authorized to practice mechanotherapy under 37436
section 4731.151 of the Revised Code, and doctors of medicine and 37437
surgery, osteopathic medicine and surgery, or podiatric medicine 37438
and surgery who are licensed, certificated, or otherwise legally 37439
authorized for their respective practices under this chapter, to 37440
which all of the following apply: 37441

(a) Each physician who is a member of the group practice 37442
provides substantially the full range of services that the 37443
physician routinely provides, including medical care, 37444
consultation, diagnosis, or treatment, through the joint use of 37445
shared office space, facilities, equipment, and personnel. 37446

(b) Substantially all of the services of the members of the 37447
group are provided through the group and are billed in the name of 37448
the group and amounts so received are treated as receipts of the 37449
group. 37450

(c) The overhead expenses of and the income from the practice 37451
are distributed in accordance with methods previously determined 37452
by members of the group. 37453

(d) The group practice meets any other requirements that the 37454
state medical board applies in rules adopted under section 4731.70 37455
of the Revised Code. 37456

(2) In the case of a faculty practice plan associated with a 37457
hospital with a medical residency training program in which 37458
physician members may provide a variety of specialty services and 37459
provide professional services both within and outside the group, 37460
as well as perform other tasks such as research, the criteria in 37461
division (E)(1) of this section apply only with respect to 37462
services rendered within the faculty practice plan. 37463

(F) "Home health care services" and "immediate family" have 37464
the same meanings as in the rules adopted under section 4731.70 of 37465
the Revised Code. 37466

(G) "Hospital" has the same meaning as in section 3727.01 of 37467
the Revised Code. 37468

(H) A "referral" includes both of the following: 37469

(1) A request by a holder of a certificate under this chapter 37470
for an item or service, including a request for a consultation 37471
with another physician and any test or procedure ordered by or to 37472
be performed by or under the supervision of the other physician; 37473

(2) A request for or establishment of a plan of care by a 37474
certificate holder that includes the provision of designated 37475
health services. 37476

(I) "Third-party payer" has the same meaning as in section 37477
3901.38 of the Revised Code. 37478

Sec. 4731.71. The auditor of state may implement procedures 37479
to detect violations of section 4731.66 or 4731.69 of the Revised 37480
Code within governmental health care programs administered by the 37481
state. The auditor of state shall report any violation of either 37482
section to the state medical board and shall certify to the 37483
attorney general in accordance with section 131.02 of the Revised 37484
Code the amount of any refund owed to a state-administered 37485
governmental health care program under section 4731.69 of the 37486
Revised Code as a result of a violation. If a refund is owed to 37487
the medical assistance program established under Chapter 5111. of 37488
the Revised Code or the disability ~~assistance~~ medical assistance 37489
program established under Chapter 5115. of the Revised Code, the 37490
auditor of state also shall report the amount to the department of 37491
commerce. 37492

The state medical board also may implement procedures to 37493

detect violations of section 4731.66 or 4731.69 of the Revised Code. 37494
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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: 37496
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(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. 37500
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(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. 37503
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(3) A chiropractor may use roentgen rays only for diagnostic purposes. 37507
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(4) The practice of chiropractic does not include the performance of abortions. 37509
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(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.~~ 37511
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Sec. 4734.99. (A) Whoever violates section 4734.14 of the Revised Code is guilty of a felony of the fifth degree on a first offense, unless the offender previously has been convicted of or has pleaded guilty to a violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, ~~4725.41,~~ 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 4731.41, 4731.43, 37517
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4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 4741.19, 4755.48, 37524
4757.02, 4759.02, 4761.10, or 4773.02 of the Revised Code or an 37525
offense under an existing or former law of this state, another 37526
state, or the United States that is or was substantially 37527
equivalent to a violation of any of those sections, in which case 37528
the offender is guilty of a felony of the fourth degree. For each 37529
subsequent offense, the offender is guilty of a felony of the 37530
fourth degree. 37531

(B) Whoever violates section 4734.161 of the Revised Code is 37532
guilty of a misdemeanor of the first degree. 37533

(C) Whoever violates division (A), (B), (C), or (D) of 37534
section 4734.32 of the Revised Code is guilty of a minor 37535
misdemeanor on a first offense; on each subsequent offense, the 37536
person is guilty of a misdemeanor of the fourth degree, except 37537
that an individual guilty of a subsequent offense shall not be 37538
subject to imprisonment, but to a fine alone of up to one thousand 37539
dollars for each offense. 37540

Sec. 4736.12. (A) The state board of sanitarian registration 37541
shall charge the following fees: 37542

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ 37543
seventy-five dollars; 37544

(2) For sanitarians-in-training to apply for registration as 37545
sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 37546
pay this fee only once regardless of the number of times the 37547
applicant takes an examination required under section 4736.08 of 37548
the Revised Code. 37549

(3) For persons other than sanitarians-in-training to apply 37550
for registration as sanitarians, including persons meeting the 37551
requirements of section 4736.16 of the Revised Code, one hundred 37552
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 37553

regardless of the number of times the applicant takes an 37554
examination required under section 4736.08 of the Revised Code. 37555

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 37556
~~by the board and shall not exceed sixty-one~~ sixty-nine dollars. 37557

(5) The renewal fee for sanitarians-in-training shall be 37558
~~fixed by the board and shall not exceed sixty-one~~ sixty-nine 37559
dollars. 37560

(6) For late application for renewal, twenty-five dollars. 37561

The board of sanitarian registration, with the approval of 37562
the controlling board, may establish fees in excess of the amounts 37563
provided in this section, provided that such fees do not exceed 37564
the amounts permitted by this section by more than fifty per cent. 37565

(B) The board of sanitarian registration shall charge 37566
separate fees for examinations as required by section 4736.08 of 37567
the Revised Code, provided that the fees are not in excess of the 37568
actual cost to the board of conducting the examinations. 37569

(C) The board of sanitarian registration may adopt rules 37570
establishing fees for all of the following: 37571

(1) Application for the registration of a training agency 37572
approved under rules adopted by the board pursuant to section 37573
4736.11 of the Revised Code and for the annual registration 37574
renewal of an approved training agency. 37575

(2) Application for the review of continuing education hours 37576
submitted for the board's approval by approved training agencies 37577
or by registered sanitarians or sanitarians-in-training. 37578

Sec. 4743.05. Except as otherwise provided in sections 37579
4701.20, 4723.062, 4723.082, and 4729.65 of the Revised Code, all 37580
money collected under Chapters 3773., 4701., 4703., 4709., 4713., 37581
4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 37582
4741., 4753., 4755., 4757., 4758., 4759., ~~and~~ 4761., 4771., and 37583

~~4779.~~ of the Revised Code, ~~and until December 31, 2004,~~ money 37584
~~collected under Chapter 4779. of the Revised Code,~~ shall be paid 37585
into the state treasury to the credit of the occupational 37586
licensing and regulatory fund, which is hereby created for use in 37587
administering such chapters. 37588

At the end of each quarter, the director of budget and 37589
management shall transfer from the occupational licensing and 37590
regulatory fund to the nurse education assistance fund created in 37591
section 3333.28 of the Revised Code the amount certified to the 37592
director under division (B) of section 4723.08 of the Revised 37593
Code. 37594

At the end of each quarter, the director shall transfer from 37595
the occupational licensing and regulatory fund to the certified 37596
public accountant education assistance fund created in section 37597
4701.26 of the Revised Code the amount certified to the director 37598
under division (H)(2) of section 4701.10 of the Revised Code. 37599

Sec. 4747.05. (A) The hearing aid dealers and fitters 37600
licensing board shall issue to each applicant, within sixty days 37601
of receipt of a properly completed application and payment of two 37602
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 37603
fitter's license if the applicant, if an individual: 37604

(1) Is at least eighteen years of age; 37605

(2) Is a person of good moral character; 37606

(3) Is free of contagious or infectious disease; 37607

(4) Has successfully passed a qualifying examination 37608
specified and administered by the board. 37609

(B) If the applicant is a firm, partnership, association, or 37610
corporation, the application, in addition to such information as 37611
the board requires, shall be accompanied by an application for a 37612
license for each person, whether owner or employee, of the firm, 37613

partnership, association, or corporation, who engages in dealing 37614
in or fitting of hearing aids, or shall contain a statement that 37615
such applications are submitted separately. No firm, partnership, 37616
association, or corporation licensed pursuant to this chapter 37617
shall permit any unlicensed person to sell or fit hearing aids. 37618

(C) Each license issued expires on the thirtieth day of 37619
January of the year following that in which it was issued. 37620

Sec. 4747.06. (A) Each person engaged in the practice of 37621
dealing in or fitting of hearing aids who holds a valid hearing 37622
aid dealer's or fitter's license shall apply annually to the 37623
hearing aid dealers and fitters licensing board for renewal of 37624
such license under the standard renewal procedure specified in 37625
Chapter 4745. of the Revised Code. The board shall issue to each 37626
applicant, on proof of completion of the continuing education 37627
required by division (B) of this section and payment of one 37628
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 37629
February, one hundred ~~seventy-five~~ eighty-three dollars on or 37630
before the first day of March, or two hundred ten dollars 37631
thereafter, a renewed hearing aid dealer's or fitter's license. No 37632
person who applies for renewal of a hearing aid dealer's or 37633
fitter's license that has expired shall be required to take any 37634
examination as a condition of renewal provided application for 37635
renewal is made within two years of the date such license expired. 37636

(B) Each person engaged in the practice of dealing in or 37637
fitting of hearing aids who holds a valid hearing aid dealer's or 37638
fitter's license shall complete each year not less than ten hours 37639
of continuing professional education approved by the board. On a 37640
form provided by the board, the person shall certify to the board, 37641
at the time of license renewal pursuant to division (A) of this 37642
section, that in the preceding year the person has completed 37643
continuing education in compliance with this division and shall 37644

submit any additional information required by rule of the board 37645
regarding the continuing education. The board shall adopt rules in 37646
accordance with Chapter 119. of the Revised Code establishing the 37647
standards continuing education programs must meet to obtain board 37648
approval and continuing education reporting requirements. 37649

Continuing education may be applied to meet the requirement 37650
of this division if it is provided or certified by any of the 37651
following: 37652

(1) The national institute of hearing instruments studies 37653
committee of the international hearing society; 37654

(2) The American speech-language hearing association; 37655

(3) The American academy of audiology. 37656

The board may excuse persons licensed under this chapter, as 37657
a group or as individuals, from all or any part of the 37658
requirements of this division because of an unusual circumstance, 37659
emergency, or special hardship. 37660

Sec. 4747.07. Each person who holds a hearing aid dealer's or 37661
fitter's license and engages in the practice of dealing in and 37662
fitting of hearing aids shall display such license in a 37663
conspicuous place in the person's office or place of business at 37664
all times. Each person who maintains more than one office or place 37665
of business shall post a duplicate copy of the license at each 37666
location. The hearing aid dealers and fitters licensing board 37667
shall issue duplicate copies of a license upon receipt of a 37668
properly completed application and payment of ~~fifteen~~ sixteen 37669
dollars for each copy requested. 37670

Sec. 4747.10. Each person currently engaged in training to 37671
become a licensed hearing aid dealer or fitter shall apply to the 37672
hearing aid dealers and fitters licensing board for a hearing aid 37673
dealer's and fitter's trainee permit. The board shall issue to 37674

each applicant within thirty days of receipt of a properly 37675
completed application and payment of one hundred fifty dollars, a 37676
trainee permit if such applicant is: 37677

(A) At least eighteen years of age; 37678

(B) The holder of a diploma from an accredited high school, 37679
or possesses an equivalent education; 37680

(C) A person of good moral character; 37681

(D) Free of contagious or infectious disease. 37682

Each trainee permit issued by the board expires one year from 37683
the date it was first issued, and may be renewed once if the 37684
trainee has not successfully completed the qualifying requirements 37685
for licensing as a hearing aid dealer or fitter before the 37686
expiration date of such permit. The board shall issue a renewed 37687
permit to each applicant upon receipt of a properly completed 37688
application and payment of one hundred five dollars. No person 37689
holding a trainee permit shall engage in the practice of dealing 37690
in or fitting of hearing aids except while under supervision by a 37691
licensed hearing aid dealer or fitter. 37692

Sec. 4751.06. (A) An applicant for licensure as a nursing 37693
home administrator who has successfully completed the requirements 37694
of section 4751.05 of the Revised Code, passed the examination 37695
administered by the board of examiners of nursing home 37696
administrators or a government or private entity under contract 37697
with the board, and paid to the board an original license fee of 37698
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 37699
provided by the board. Such license shall certify that the 37700
applicant has met the licensure requirements of Chapter 4751. of 37701
the Revised Code and is entitled to practice as a licensed nursing 37702
home administrator. 37703

(B) A temporary license for a period not to exceed one 37704

hundred eighty days may be issued to an individual temporarily 37705
filling the position of a nursing home administrator vacated by 37706
reason of death, illness, or other unexpected cause, pursuant to 37707
regulations adopted by the board. 37708

(C) The fee for a temporary license is one hundred dollars. 37709
Said fee must accompany the application for the temporary license. 37710

(D) Any license or temporary license issued by the board 37711
pursuant to this section shall be under the hand of the 37712
chairperson and the secretary of the board. 37713

(E) A duplicate of the original certificate of registration 37714
or license may be secured to replace one that has been lost or 37715
destroyed by submitting to the board a notarized statement 37716
explaining the conditions of the loss, mutilation, or destruction 37717
of the certificate or license and by paying a fee of twenty-five 37718
dollars. 37719

(F) A duplicate certificate of registration and license may 37720
be issued in the event of a legal change of name by submitting to 37721
the board a certified copy of the court order or marriage license 37722
establishing the change of name, by returning at the same time the 37723
original license and certificate of registration, and by paying a 37724
fee of twenty-five dollars. 37725

Sec. 4751.07. (A) Every individual who holds a valid license 37726
as a nursing home administrator issued under division (A) of 37727
section 4751.06 of the Revised Code, shall immediately upon 37728
issuance thereof be registered with the board of examiners of 37729
nursing home administrators and be issued a certificate of 37730
registration. Such individual shall annually apply to the board 37731
for a new certificate of registration on forms provided for such 37732
purpose prior to the expiration of the certificate of registration 37733
and shall at the same time submit satisfactory evidence to the 37734
board of having attended such continuing education programs or 37735

courses of study as may be prescribed in rules adopted by the board. 37736
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(B) Upon making an application for a new certificate of registration such individual shall pay the annual registration fee of two hundred ~~ten~~ seventy-five dollars. 37738
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(C) Upon receipt of such application for registration and the registration fee required by divisions (A) and (B) of this section, the board shall issue a certificate of registration to such nursing home administrator. 37741
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(D) The license of a nursing home administrator who fails to comply with this section shall automatically lapse. 37745
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(E) A nursing home administrator who has been licensed and registered in this state who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately; provided, that such individual may thereafter register to resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding annual registration. 37747
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(F) Only an individual who has qualified as a licensed and registered nursing home administrator under Chapter 4751. of the Revised Code and the rules adopted thereunder, and who holds a valid current registration certificate pursuant to this section, may use the title "nursing home administrator," or the abbreviation "N.H.A." after the individual's name. No other person shall use such title or such abbreviation or any other words, letters, sign, card, or device tending to indicate or to imply that the person is a licensed and registered nursing home administrator. 37754
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(G) Every person holding a valid license entitling the person to practice nursing home administration in this state shall display said license in the nursing home which is the person's 37764
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principal place of employment, and while engaged in the practice 37767
of nursing home administration shall have at hand the current 37768
registration certificate. 37769

(H) Every person holding a valid temporary license shall have 37770
such license at hand while engaged in the practice of nursing home 37771
administration. 37772

Sec. 4759.08. (A) The Ohio board of dietetics shall charge 37773
and collect fees as described in this section for issuing the 37774
following: 37775

(1) An application for an initial dietitian license, or an 37776
application for ~~reinstatement~~ reactivation of an inactive license, 37777
one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a 37778
lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ 37779
eighty dollars; 37780

(2) License renewal, ~~eighty~~ ninety-five dollars; 37781

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ 37782
sixty-five dollars; 37783

(4) A duplicate license or permit, twenty dollars; 37784

(5) For processing a late application for renewal of any 37785
license or permit, an additional fee equal to fifty per cent of 37786
the fee for the renewal. 37787

(B) The board shall not require a licensed dietitian holding 37788
an inactive license to pay the renewal fee. 37789

(C) Subject to the approval of the controlling board, the 37790
Ohio board of dietetics may establish fees in excess of the 37791
amounts provided in division (A) of this section, provided that 37792
the fees do not exceed the amounts by greater than fifty per cent. 37793

(D) The board may adopt rules pursuant to Chapter 119. of the 37794
Revised Code to waive all or part of the fee for an initial 37795

license if the license is issued within one hundred days of the 37796
date of expiration of the license. 37797

(E) All receipts of the board shall be deposited in the state 37798
treasury to the credit of the occupational licensing and 37799
regulatory fund. All vouchers of the board shall be approved by 37800
the chairperson or secretary of the board, or both, as authorized 37801
by the board. 37802

Sec. 4771.22. The Ohio athletic commission shall deposit all 37803
money it receives under this chapter to the credit of the ~~athlete~~ 37804
~~agents registration~~ occupational licensing and regulatory fund, 37805
~~which is hereby created in the state treasury. The commission~~ 37806
~~shall use the fund to administer and enforce this chapter under~~ 37807
section 4743.05 of the Revised Code. 37808

Sec. 4779.08. (A) The state medical board ~~of orthotics,~~ 37809
~~prosthetics, and pedorthics~~ shall adopt rules in accordance with 37810
Chapter 119. of the Revised Code to carry out the purposes of this 37811
chapter, including rules prescribing all of the following: 37812

(1) The form and manner of filing of applications to be 37813
admitted to examinations and for licensure and license renewal; 37814

(2) Standards and procedures for formulating, evaluating, 37815
approving, and administering licensing examinations or recognizing 37816
other entities that conduct examinations; 37817

(3) The form, scoring, and scheduling of licensing 37818
examinations; 37819

(4) Fees for examinations and applications for licensure and 37820
license renewal; 37821

(5) Fees for approval of continuing education courses; 37822

(6) Procedures for issuance, renewal, suspension, and 37823
revocation of licenses and the conduct of disciplinary hearings; 37824

(7) Standards of ethical and professional conduct in the practice of orthotics, prosthetics, and pedorthics;	37825 37826
(8) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;	37827 37828
(9) Fines for violations of this chapter;	37829
(10) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;	37830 37831 37832
(11) Standards for continuing education programs required for license renewal;	37833 37834
(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	37835 37836
(B) The board may adopt any other rules necessary for the administration of this chapter.	37837 37838
(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.	37839 37840 37841 37842 37843
Sec. 4779.09. An applicant for a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics shall apply to the state <u>medical</u> board of orthotics, prosthetics, and pedorthics in accordance with rules adopted under section 4779.08 of the Revised Code and pay the application fee specified in the rules. The board shall issue a license to an applicant who is eighteen years of age or older, of good moral character, and meets either the requirements of divisions (A) and (B) of this section or the requirements of section 4779.16 or 4779.17 of the Revised Code.	37844 37845 37846 37847 37848 37849 37850 37851 37852 37853

(A) The applicant must pass an examination conducted pursuant to section 4779.15 of the Revised Code; 37854
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(B) The applicant must meet the requirements of one of the following: 37856
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(1) In the case of an applicant for a license to practice orthotics, the requirements of section 4779.10 of the Revised Code; 37858
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(2) In the case of an applicant for a license to practice prosthetics, the requirements of section 4779.11 of the Revised Code; 37861
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(3) In the case of an applicant for a license to practice orthotics and prosthetics, the requirements of section 4779.12 of the Revised Code; 37864
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(4) In the case of an applicant for a license to practice pedorthics, the requirements of section 4779.13 of the Revised Code. 37867
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Sec. 4779.10. To be eligible for a license to practice orthotics, an applicant must meet the requirements of division (A) of this section, or, if the application is made on or before January 1, 2008, the requirements of either division (A) or (B) of this section: 37870
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(A) The requirements of this division are met if the applicant is in compliance with divisions (A)(1), (2), and (3) of this section. 37875
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(1) On the date of application, the applicant has practiced orthotics for not less than eight months under the supervision of an individual licensed under this chapter to practice orthotics; 37878
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(2) The applicant has completed an orthotics residency program approved by the board under section 4779.27 of the Revised 37881
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Code;	37883
(3) One of the following is the case:	37884
(a) The applicant holds a bachelor's degree in orthotics and prosthetics from an accredited college or university whose orthotics and prosthetics program is recognized by the state <u>medical</u> board of orthotics, prosthetics, and pedorthics under section 4779.25 of the Revised Code or an equivalent educational credential from a foreign educational institution recognized by the board;	37885 37886 37887 37888 37889 37890 37891
(b) The applicant holds a bachelor's degree in a subject other than orthotics and prosthetics or an equivalent educational credential from a foreign educational institution recognized by the board and has completed a certificate program in orthotics recognized by the board under section 4779.26 of the Revised Code.	37892 37893 37894 37895 37896
(B) This division applies to applications made on or before January 1, 2008. The requirements of this division are met if the applicant is in compliance with division (B)(1) or (B)(2)(a) or (b) of this section:	37897 37898 37899 37900
(1) If application is made on or before January 1, 2006, the applicant meets all of the following requirements:	37901 37902
(a) Holds an associate's degree or higher from an accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;	37903 37904 37905
(b) Has completed a certificate program in orthotics recognized by the board under section 4779.26 of the Revised Code;	37906 37907
(c) Has three years of documented, full-time experience practicing or teaching orthotics.	37908 37909
(2) If the application is made on or before January 1, 2008, the applicant meets the requirements of division (B)(2)(a) or (b) of this section:	37910 37911 37912

(a)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;

(ii) The applicant holds a valid certificate in orthotics issued by the American board for certification in orthotics and prosthetics, the board for orthotist/prosthetist certification, or an equivalent successor organization recognized by the board;

(iii) The applicant has completed three years of documented, full-time experience practicing or teaching orthotics.

(b)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;

(ii) The applicant has completed a certificate program in orthotics recognized by the board under section 4779.26 of the Revised Code;

(iii) The applicant has completed a residency program in orthotics recognized by the board under section 4779.27 of the Revised Code or has three years of documented, full-time experience practicing or teaching orthotics.

Sec. 4779.11. To be eligible for a license to practice prosthetics, an applicant must meet the requirements of division (A) of this section, or, if the application is made on or before January 1, 2008, the requirements of either division (A) or (B) of this section:

(A) The requirements of this division are met if the applicant is in compliance with divisions (A)(1), (2), and (3) of this section.

(1) On the date of application, the applicant has practiced

prosthetics for not less than eight months under the supervision 37943
of an individual licensed under this chapter to practice 37944
prosthetics; 37945

(2) The applicant has completed a prosthetics residency 37946
program approved by the board under section 4779.27 of the Revised 37947
Code; 37948

(3) One of the following is the case: 37949

(a) The applicant holds a bachelor's degree in orthotics and 37950
prosthetics from an accredited college or university whose 37951
orthotics and prosthetics program is recognized by the state 37952
medical board ~~of orthotics, prosthetics, and pedorthics~~ under 37953
section 4779.25 of the Revised Code or an equivalent educational 37954
credential from a foreign educational institution recognized by 37955
the board; 37956

(b) The applicant holds a bachelor's degree in a subject 37957
other than orthotics and prosthetics or an equivalent educational 37958
credential from a foreign educational institution recognized by 37959
the board and has completed a certificate program in prosthetics 37960
recognized by the board under section 4779.26 of the Revised Code. 37961

(B) This division applies to applications made on or before 37962
January 1, 2008. The requirements of this division are met if the 37963
applicant is in compliance with division (B)(1) or (B)(2)(a) or 37964
(b) of this section: 37965

(1) If application is made on or before January 1, 2006, the 37966
applicant meets all of the following requirements: 37967

(a) Holds an associate's degree or higher from an accredited 37968
college or university or an equivalent credential from a foreign 37969
educational institution recognized by the board; 37970

(b) Has completed a certificate program in prosthetics 37971
recognized by the board under section 4779.26 of the Revised Code; 37972

(c) Has three years of documented, full-time experience practicing or teaching prosthetics. 37973
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(2) If the application is made on or before January 1, 2008, the applicant meets the requirements of division (B)(2)(a) or (b) of this section: 37975
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(a)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board; 37978
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(ii) The applicant holds a valid certificate in prosthetics issued by the American board for certification in orthotics and prosthetics, the board for orthotist/prosthetist certification, or an equivalent successor organization recognized by the board; 37982
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(iii) The applicant has completed three years of documented, full-time experience practicing or teaching prosthetics. 37986
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(b)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board; 37988
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(ii) The applicant has completed a certificate program in prosthetics recognized by the board under section 4779.26 of the Revised Code; 37992
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(iii) The applicant has completed a residency program in prosthetics recognized by the board under section 4779.27 of the Revised Code or has three years of documented, full-time experience practicing or teaching prosthetics. 37995
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Sec. 4779.12. To be eligible for a license to practice orthotics and prosthetics, an applicant must meet the requirements of division (A) of this section, or, if the application is made on or before January 1, 2008, the requirements of either division (A) 37999
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or (B) of this section: 38003

(A) The requirements of this division are met if the 38004
applicant is in compliance with divisions (A)(1), (2), and (3) of 38005
this section. 38006

(1) On the date of application, the applicant has practiced 38007
orthotics and prosthetics for not less than eight months under the 38008
supervision of an individual licensed under this chapter to 38009
practice orthotics and prosthetics; 38010

(2) The applicant has completed an orthotics and prosthetics 38011
residency program approved by the board under section 4779.27 of 38012
the Revised Code; 38013

(3) One of the following is the case: 38014

(a) The applicant holds a bachelor's degree in orthotics and 38015
prosthetics from an accredited college or university whose 38016
orthotics and prosthetics program is recognized by the state 38017
medical board ~~of orthotics, prosthetics, and pedorthics~~ under 38018
section 4779.25 of the Revised Code or an equivalent educational 38019
credential from a foreign educational institution recognized by 38020
the board; 38021

(b) The applicant holds a bachelor's degree in a subject 38022
other than orthotics and prosthetics or an equivalent educational 38023
credential from a foreign educational institution recognized by 38024
the board and has completed a certificate program in orthotics and 38025
prosthetics recognized by the board under section 4779.26 of the 38026
Revised Code. 38027

(B) This division applies to applications made on or before 38028
January 1, 2008. The requirements of this division are met if the 38029
applicant is in compliance with division (B)(1) or (B)(2)(a) or 38030
(b) of this section: 38031

(1) If application is made on or before January 1, 2006, the 38032

applicant meets all of the following requirements:	38033
(a) Holds an associate's degree or higher from an accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;	38034 38035 38036
(b) Has completed a certificate program in orthotics and prosthetics recognized by the board under section 4779.26 of the Revised Code;	38037 38038 38039
(c) Has six years of documented, full-time experience practicing or teaching orthotics or prosthetics.	38040 38041
(2) If the application is made on or before January 1, 2008, the applicant meets the requirements of division (B)(2)(a) or (b) of this section:	38042 38043 38044
(a)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;	38045 38046 38047 38048
(ii) The applicant holds a valid certificate in orthotics and prosthetics issued by the American board for certification in orthotics and prosthetics, the board for orthotist/prosthetist certification, or an equivalent successor organization recognized by the board;	38049 38050 38051 38052 38053
(iii) The applicant has completed six years of documented, full-time experience practicing or teaching orthotics or prosthetics.	38054 38055 38056
(b)(i) The applicant holds a bachelor's degree or higher from a nationally accredited college or university or an equivalent credential from a foreign educational institution recognized by the board;	38057 38058 38059 38060
(ii) The applicant has completed a certificate program in orthotics and prosthetics recognized by the board under section	38061 38062

4779.26 of the Revised Code; 38063

(iii) The applicant has completed a residency program in 38064
orthotics and prosthetics recognized by the board under section 38065
4779.27 of the Revised Code or has six years of documented, 38066
full-time experience practicing or teaching orthotics or 38067
prosthetics. 38068

Sec. 4779.15. Except as provided in sections 4779.16 and 38069
4779.17 of the Revised Code, the state medical board ~~of orthotics,~~ 38070
~~prosthetics, and pedorthics~~ shall examine or cause to be examined 38071
each individual who seeks to practice orthotics, prosthetics, 38072
orthotics and prosthetics, or pedorthics in this state. 38073

To be eligible to take an examination conducted by the board 38074
or an entity recognized by the board for the purpose of this 38075
section, an individual must file an application and pay an 38076
examination fee as specified in rules adopted by the board under 38077
section 4779.08 of the Revised Code and meet all the requirements 38078
of section 4779.09 of the Revised Code other than the requirement 38079
of having passed the examination. 38080

Examinations shall be conducted at least once a year in 38081
accordance with rules adopted by the board under section 4779.08 38082
of the Revised Code. Each applicant shall be examined in such 38083
subjects as the board requires. 38084

The board may use as its examination all or part of a 38085
standard orthotics, prosthetics, orthotics and prosthetics, or 38086
pedorthics licensing examination established for the purpose of 38087
determining the competence of individuals to practice orthotics, 38088
prosthetics, or pedorthics in the United States. In lieu of 38089
conducting examinations, the board may accept the results of 38090
examinations conducted by entities recognized by the board. 38091

Sec. 4779.16. The state medical board ~~of orthotics,~~ 38092

~~prosthetics, and pedorthics~~ shall issue a license under section 38093
4779.09 of the Revised Code to practice orthotics, prosthetics, 38094
orthotics and prosthetics, or pedorthics without examination to an 38095
applicant who meets the requirements of divisions (A) and (B) of 38096
this section: 38097

(A) Not later than July 27, 2001, applies to the board in 38098
accordance with section 4779.09 of the Revised Code; 38099

(B)(1) In the case of an applicant for a license to practice 38100
orthotics, is actively practicing or teaching orthotics on October 38101
27, 2000, and complies with division (B)(1)(a) or (b) of this 38102
section: 38103

(a) The applicant meets all of the following requirements: 38104

(i) Holds a bachelor's degree or higher from a nationally 38105
accredited college or university in the United States; 38106

(ii) Has completed a certificate program in orthotics 38107
approved by the board under section 4779.26 of the Revised Code; 38108

(iii) Is certified in orthotics by the American board for 38109
certification in orthotics and prosthetics, the board of 38110
orthotist/prosthetist certification, or an equivalent successor 38111
organization recognized by the board; 38112

(iv) Has completed a residency program approved by the board 38113
under section 4779.27 of the Revised Code. 38114

(b) The individual meets both of the following requirements: 38115

(i) Has a minimum of three years of documented, full-time 38116
experience practicing or teaching orthotics; 38117

(ii) Has passed the certification examination in orthotics 38118
developed by the American board of certification in orthotics and 38119
prosthetics, the board of orthotist/prosthetist certification, or 38120
an equivalent organization recognized by the board. 38121

(2) In the case of an applicant for a license to practice 38122

prosthetics, is actively practicing or teaching prosthetics on 38123
October 27, 2000, and complies with division (B)(2)(a) or (b) of 38124
this section: 38125

(a) The applicant meets all of the following requirements: 38126

(i) Holds a bachelor's degree or higher from a nationally 38127
accredited college or university in the United States; 38128

(ii) Has completed a certificate program in prosthetics 38129
approved by the board under section 4779.26 of the Revised Code; 38130

(iii) Is certified in prosthetics by the American board for 38131
certification in orthotics and prosthetics, the board of 38132
orthotist/prosthetist certification, or an equivalent successor 38133
organization recognized by the board; 38134

(iv) Has completed a residency program approved by the board 38135
under section 4779.27 of the Revised Code. 38136

(b) The applicant meets both of the following requirements: 38137

(i) Has a minimum of three years of documented, full-time 38138
experience practicing or teaching prosthetics; 38139

(ii) Has passed the certification examination in prosthetics 38140
of the American board of certification in orthotics and 38141
prosthetics, the board of orthotist/prosthetist certification, or 38142
an equivalent organization recognized by the board. 38143

(3) In the case of an applicant for a license to practice 38144
orthotics and prosthetics, the applicant complies with division 38145
(B)(3)(a) or (b) of this section: 38146

(a) The applicant meets all of the following requirements: 38147

(i) Holds a bachelor's degree or higher from an accredited 38148
college or university in the United States; 38149

(ii) Has completed a certificate program in orthotics and 38150
prosthetics approved by the board under section 4779.26 of the 38151

Revised Code;	38152
(iii) Has completed a residency program in orthotics and prosthetics approved under section 4779.27 of the Revised Code;	38153 38154
(iv) Is certified in orthotics and prosthetics by the American board for certification in orthotics and prosthetics, the board of orthotist/prosthetist certification, or an equivalent successor organization recognized by the board;	38155 38156 38157 38158
(b) The applicant meets both of the following requirements:	38159
(i) Has a minimum of six years of documented, full-time experience practicing or teaching orthotics and prosthetics;	38160 38161
(ii) Has passed the orthotics and prosthetics certification examination requirements of the American board for certification in orthotics and prosthetics, the board of orthotist/prosthetist certification, or an equivalent organization recognized by the board.	38162 38163 38164 38165 38166
(4) In the case of an applicant for a license to practice pedorthics, is actively practicing or teaching pedorthics on October 27, 2000, and is certified in pedorthics by the board for certification in pedorthics.	38167 38168 38169 38170
Sec. 4779.17. The state <u>medical</u> board of orthotics, prosthetics, and pedorthics shall issue a license under section	38171 38172
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:	38173 38174 38175
(A) Applies to the board in accordance with section 4779.09 of the Revised Code;	38176 38177
(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;	38178 38179 38180

(C) One of the following applies:	38181
(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.	38182 38183 38184
(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.	38185 38186 38187
(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.	38188 38189 38190
(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.	38191 38192 38193
(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.	38194 38195 38196 38197 38198
Sec. 4779.18. (A) The state <u>medical</u> board of orthotics, prosthetics, and pedorthics shall issue a temporary license to an individual who meets all of the following requirements:	38199 38200 38201
(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;	38202 38203 38204
(2) Is eighteen years of age or older;	38205
(3) Is of good moral character;	38206
(4) One of the following applies:	38207
(a) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions	38208 38209

(A)(2) and (3) of section 4779.10 of the Revised Code.	38210
(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.	38211 38212 38213
(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.	38214 38215 38216
(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.	38217 38218 38219
(B) A temporary license issued under this section is valid for one year and may be renewed once in accordance with rules adopted by the board under section 4779.08 of the Revised Code.	38220 38221 38222
An individual who holds a temporary license may practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics only under the supervision of an individual who holds a license issued under section 4779.09 of the Revised Code in the same area of practice.	38223 38224 38225 38226 38227
(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.	38228 38229 38230 38231 38232
Sec. 4779.20. (A) An individual seeking to renew a license issued under section 4779.09 of the Revised Code shall, on or before the day the license expires pursuant to section 4779.19 of the Revised Code, apply for renewal. The state <u>medical</u> board of orthotics, prosthetics, and pedorthics shall send renewal notices at least one month prior to the expiration date.	38233 38234 38235 38236 38237 38238
Applications shall be submitted to the board on forms the	38239

board prescribes and furnishes. Each application shall be 38240
accompanied by a renewal fee specified in rules adopted by the 38241
board under section 4779.08 of the Revised Code, except that the 38242
board may waive part of the renewal fee for the first renewal of 38243
an initial license that expires one hundred days or less after it 38244
is issued. 38245

(B) Beginning with the fourth renewal and every third renewal 38246
thereafter, a license holder must certify to the board one of the 38247
following: 38248

(1) In the case of an individual licensed as an orthotist or 38249
prosthetist, the individual has completed within the preceding 38250
three years forty-five continuing education units granted by the 38251
board under section 4779.24 of the Revised Code; 38252

(2) In the case of an individual licensed as a prosthetist 38253
and orthotist, the individual has completed within the preceding 38254
three years seventy-five continuing education units granted by the 38255
board under section 4779.24 of the Revised Code; 38256

(3) In the case of an individual licensed as a pedorthist, 38257
the individual has completed within the previous three years the 38258
continuing education courses required by the board for 38259
certification in pedorthics or an equivalent organization 38260
recognized by the board. 38261

Sec. 4779.21. The state medical board ~~of orthotics,~~ 38262
~~prosthetics, and pedorthics~~ shall maintain board records, 38263
including records of the board's proceedings, a registry of all 38264
applicants for licensure that indicates whether the applicant was 38265
granted a license, and any other records necessary to carry out 38266
the provisions of this chapter. 38267

Sec. 4779.22. (A) The state medical board ~~of orthotics,~~ 38268
~~prosthetics, and pedorthics~~ shall publish and make available to 38269

the public written information regarding both of the following:	38270
(1) The board's regulatory functions <u>pursuant to this chapter</u>	38271
and the provisions of this chapter;	38272
(2) The procedures by which complaints are filed with the	38273
board, which shall include a description of the complaint	38274
procedures and the name, mailing address, and telephone number of	38275
the board.	38276
(B) The board shall make the information described in	38277
division (A) of this section available to all of the following:	38278
(1) Consumers of orthotic, prosthetic, and pedorthic goods	38279
and services;	38280
(2) Individuals licensed by the board;	38281
(3) Nationally recognized orthotic, prosthetic, and pedorthic	38282
certifying and accrediting organizations;	38283
(4) Nationally recognized orthotic, prosthetic, and pedorthic	38284
educational organizations;	38285
(5) Any other entity that may reasonably require the	38286
information.	38287
(C) The board may make available any of the information	38288
described in division (A) of this section by adopting a rule under	38289
section 4779.08 of the Revised Code requiring the information to	38290
be displayed in any of the following ways:	38291
(1) On each registration form or application prepared by the	38292
board;	38293
(2) On a sign prominently displayed in the place of business	38294
of each individual licensed under this chapter;	38295
(3) In each bill or written contract for services provided by	38296
an individual licensed under this chapter.	38297

Sec. 4779.23. (A) To be eligible for approval by the state 38298
~~medical board of orthotics, prosthetics, and pedorthics~~, a 38299
continuing education course must satisfy all of the following 38300
requirements: 38301

(1) Include significant intellectual or practical content and 38302
be designed to improve the professional competence of 38303
participants; 38304

(2) Deal with matters directly related to the practice of 38305
orthotics, prosthetics, or pedorthics, including professional 38306
responsibility, ethical obligations, or similar subjects that the 38307
board considers necessary to maintain and improve the quality of 38308
orthotic and prosthetic services in this state; 38309

(3) Involve in-person instruction, except that a course may 38310
use self-study materials if the materials are prepared and 38311
presented by a group with appropriate practical experience; 38312

(4) Be presented in a setting that is physically suited to 38313
the course; 38314

(5) Include thorough, high-quality written material; 38315

(6) Meet any other requirements the board considers 38316
appropriate. 38317

(B) The board shall, in accordance with the standards in 38318
division (A) of this section, review and approve continuing 38319
education courses. If the board does not approve a course, it 38320
shall provide a written explanation of the reason for the denial 38321
to the person that requested approval. The board may approve 38322
continuing education courses approved by boards of other states 38323
that regulate orthotics, prosthetics, and pedorthics if the other 38324
board's standards for approving continuing education courses are 38325
equivalent to the standards established pursuant to division (A) 38326
of this section. 38327

Sec. 4779.24. The state medical board ~~of orthotics,~~ 38328
~~prosthetics, and pedorthics~~ shall grant continuing education units 38329
to individuals licensed under this chapter on the following basis: 38330

(A) For completing a continuing education course approved by 38331
the board under section 4779.23 of the Revised Code, one unit for 38332
each hour of instruction received; 38333

(B) For teaching as a faculty member a course in orthotics, 38334
prosthetics, or pedorthics that is part of the curriculum of an 38335
institution of higher education, one-half unit for each semester 38336
hour of the course, or an equivalent unit for each quarter or 38337
trimester hour of the course; 38338

(C) For teaching other than as a faculty member a course that 38339
is part of an institution of higher education's orthotics, 38340
prosthetics, or pedorthics curriculum, one unit for each hour 38341
teaching the course; 38342

(D) For teaching a continuing education course that is 38343
approved by the board under section 4779.23 of the Revised Code 38344
that is not part of an institution of higher education's 38345
orthotics, prosthetics, or pedorthics curriculum, three units for 38346
each hour teaching the course for the first time and one-half unit 38347
for each hour teaching the course each time thereafter. 38348

Sec. 4779.25. The state medical board ~~of orthotics,~~ 38349
~~prosthetics, and pedorthics~~ shall recognize an institution of 38350
higher education's bachelor's degree program in orthotics and 38351
prosthetics if the program satisfies all of the following 38352
requirements: 38353

(A) Provides not less than two semesters or three quarters of 38354
instruction in orthotics and two semesters or three quarters of 38355
instruction in prosthetics; 38356

(B) Requires as a condition of entry a high school diploma or certificate of high school equivalence issued by the state board of education;	38357 38358 38359
(C) Includes a written description of the program that includes learning goals, course objectives, and competencies for graduation;	38360 38361 38362
(D) Requires frequent, documented evaluation of students to assess their acquisition of knowledge, problem identification and solving skills, and psychomotor, behavioral, and clinical competencies;	38363 38364 38365 38366
(E) Requires as a condition of entry successful completion of courses in biology, chemistry, physics, psychology, computer science, algebra or higher math, human anatomy with a laboratory section, and physiology with a laboratory section;	38367 38368 38369 38370
(F) Requires formal instruction in biomechanics, gait analysis and pathometrics, kinesiology, pathology, materials science, research methods, and diagnostic imaging techniques;	38371 38372 38373
(G) Requires students as a condition of graduation to demonstrate orthotics skills, including measurement, impression-taking, model rectification, and fitting and alignment of orthoses for the lower limbs, upper limbs, and spines;	38374 38375 38376 38377
(H) Requires students as a condition of graduation to complete training in orthotic systems, including foot orthosis, ankle-foot orthosis, knee orthosis, knee-ankle-foot orthosis, hip-knee-ankle orthosis, hip orthosis, wrist-hand orthosis, cervical-thoracic-lumbo-sacral orthosis, thoracolumbo-sacral orthosis, lumbo-sacral orthosis, HALO, fracture management, RGO, standing frames, and seating;	38378 38379 38380 38381 38382 38383 38384
(I) Requires students as a condition of graduation to demonstrate prosthetic skills that include measurement, impression	38385 38386

taking, model rectification, diagnostic fitting, definitive 38387
fitting, postoperative management, external power, and static and 38388
dynamic alignment of sockets related to various amputation levels, 38389
including partial foot, Syme's below knee, above knee, below 38390
elbow, above elbow, and the various joint disarticulations; 38391

(J) Requires as a condition of graduation students to 38392
complete not less than five hundred hours of supervised clinical 38393
experience that focus on patient-related activities, including 38394
recommendation, measurement, impression-taking, model 38395
rectification, fabrication, fitting, and evaluating patients in 38396
the use and function of orthotics and prosthetics; 38397

(K) Provides for the evaluation of the program's compliance 38398
with the requirements of this section through regular, on-site 38399
visits conducted by a team of qualified individuals from a 38400
nationally recognized orthotic, prosthetic, or orthotic and 38401
prosthetic certifying body; 38402

(L) Meets any other standards adopted by the board under 38403
section 4779.08 of the Revised Code. 38404

Sec. 4779.26. The state medical board ~~of orthotics,~~ 38405
~~prosthetics, and pedorthics~~ shall recognize a certificate program 38406
in orthotics, prosthetics, or orthotics and prosthetics if the 38407
program satisfies all of the following requirements: 38408

(A) Meets the requirements in divisions (B), (C), (D), (E), 38409
(F), (K), and (L) of section 4779.25 of the Revised Code; 38410

(B) In the case of a certificate program in orthotics, the 38411
program does all of the following: 38412

(1) Provides not less than two semesters or three quarters of 38413
instruction in orthotics; 38414

(2) Requires students to complete not less than two hundred 38415
fifty hours of supervised clinical experience that focuses on 38416

patient-related activities, recommendation, measurement, 38417
impression-taking, model rectification, fabrication, fitting, and 38418
evaluating patients in the use and function of orthotics; 38419

(3) Meets the requirements in divisions (G) and (H) of 38420
section 4779.25 of the Revised Code. 38421

(C) In the case of a certificate program in prosthetics, the 38422
program does all of the following: 38423

(1) Provides not less than two semesters or three quarters of 38424
instruction in prosthetics; 38425

(2) Requires students to complete not less than two hundred 38426
fifty hours of supervised clinical experience that focuses on 38427
patient-related activities, recommendation, measurement, 38428
impression-taking, model rectification, fabrication, fitting, and 38429
evaluating patients in the use and function of prosthetics; 38430

(3) Meets the requirements in divisions (F) and (I) of 38431
section 4779.25 of the Revised Code. 38432

(D) In the case of a certificate program in orthotics and 38433
prosthetics, the program does both of the following: 38434

(1) Provides not less than two semesters or three quarters of 38435
instruction in orthotics and two semesters or three quarters of 38436
instruction in prosthetics; 38437

(2) Meets the requirements in divisions (H) and (I) of 38438
section 4779.25 of the Revised Code. 38439

Sec. 4779.27. The state medical board ~~of orthotics,~~ 38440
~~prosthetics, and pedorthics~~ shall approve a residency program in 38441
orthotics, prosthetics, or orthotics and prosthetics if the 38442
program does all of the following: 38443

(A) Requires a bachelor's degree as a condition of entry; 38444

(B) Does one of the following: 38445

(1) In the case of a residency program in orthotics, provides two semesters or three quarters of instruction in orthotics;	38446 38447
(2) In the case of a residency program in prosthetics, provides two semesters or three quarters of instruction in prosthetics;	38448 38449 38450
(3) In the case of a residency program in orthotics and prosthetics, provides two semesters or three quarters of instruction in orthotics and two semesters or three quarters of instruction in prosthetics.	38451 38452 38453 38454
(C) Meets the requirements in divisions (K) and (L) of section 4779.25 of the Revised Code;	38455 38456
(D) Provides residents with a sufficient variety and volume of clinical experiences to give them adequate educational experience in the acute, rehabilitative, and chronic aspects of orthotics and prosthetics, including recommendation, measurement, impression-taking, model rectification, fabrication, fitting, and evaluating patients in the use and function of orthotics and prosthetics;	38457 38458 38459 38460 38461 38462 38463
(E) Provides residents with sufficient training in clinical assessment, patient management, technical implementation, practice management, and professional responsibility.	38464 38465 38466
Sec. 4779.30. If the state <u>medical</u> board of orthotics, prosthetics, and pedorthics has reason to believe that a person who holds a license issued under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the secretary of the board, whereupon the same proceeding shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any	38467 38468 38469 38470 38471 38472 38473 38474 38475

proceeding commenced under this section. 38476

If an individual who has been granted a license under this 38477
chapter is adjudicated by a probate court to be mentally ill or 38478
mentally incompetent, the individual's license shall be 38479
automatically suspended until the individual has filed with the 38480
board a certified copy of an adjudication by a probate court of 38481
the individual's subsequent restoration to competency or has 38482
submitted to the board proof, satisfactory to the board, of having 38483
been restored to competency in the manner and form provided in 38484
section 5122.38 of the Revised Code. The judge of the court shall 38485
immediately notify the board of an adjudication of incompetence 38486
and note any suspension of a license in the margin of the court's 38487
record of the certificate. In the absence of fraud or bad faith, 38488
neither the board nor any agent, representative, or employee of 38489
the board shall be held liable in damages by any person by reason 38490
of the filing of the affidavit referred to in this section. 38491

Sec. 4779.32. If any person makes an allegation against an 38492
individual who holds a license issued under this chapter, the 38493
allegation shall be reduced to writing and verified by a person 38494
who is familiar with the facts underlying the allegation. The 38495
person making the allegation shall file three copies of the 38496
allegation with the state medical board ~~of orthotics, prosthetics,~~ 38497
~~and pedorthics~~. If a person alleges that a license holder is 38498
engaging or has engaged in conduct described in division (A) of 38499
section 4779.28 of the Revised Code, the board may proceed with an 38500
adjudication hearing under Chapter 119. of the Revised Code. The 38501
board shall retain the information filed under this section in 38502
accordance with rules adopted by the board under section 4779.08 38503
of the Revised Code. 38504

Sec. 4779.33. The secretary of the state medical board ~~of~~ 38505
~~orthotics, prosthetics, and pedorthics~~ shall enforce the laws 38506

relating to the practice of orthotics, prosthetics, and 38507
pedorthics. If the secretary has knowledge of a violation, the 38508
secretary shall investigate the violation and notify the 38509
prosecuting attorney of the proper county. 38510

Sec. 4903.24. If the public utilities commission finds after 38511
investigating that any rate, joint rate, fare, charge, toll, 38512
rental, schedule, or classification of service is unjust, 38513
unreasonable, insufficient, unjustly discriminatory, unjustly 38514
preferential, or in violation of law, or that any service is 38515
inadequate or cannot be obtained, the public utility found to be 38516
at fault shall pay the expenses incurred by the commission upon 38517
such investigation. 38518

All fees, expenses, and costs of, or in connection with, any 38519
hearing or investigation may be imposed by the commission upon any 38520
party to the record or may be divided among any parties to the 38521
record in such proportion as the commission determines. 38522

All fees, expenses, and costs authorized and collected under 38523
this section shall be deposited to the credit of the special 38524
assessment fund, which is hereby created in the state treasury. 38525
Money in the fund shall be used by the commission for the purpose 38526
of covering the costs of any investigations or hearings it orders 38527
regarding any public utility. 38528

Sec. 4905.79. Any telephone company, as defined in ~~division~~ 38529
~~(D)(2)~~ of section 5727.01 of the Revised Code, that is required to 38530
provide any telephone service program implemented after March 27, 38531
1991, to aid the communicatively impaired in accessing the 38532
telephone network shall be allowed a tax credit for the costs of 38533
any such program under section ~~5727.44~~ 5733.56 of the Revised 38534
Code. Relative to any such program, the public utilities 38535
commission, in accordance with its rules, shall allow interested 38536

parties to intervene and participate in any proceeding or part of 38537
a proceeding brought before the commission pursuant to this 38538
section. The commission shall adopt rules it considers necessary 38539
to carry out this section. 38540

Sec. 4905.91. For the purpose of protecting the public safety 38541
with respect to intrastate pipe-line transportation by any 38542
operator: 38543

(A) The public utilities commission shall: 38544

(1) Adopt, and may amend or rescind, rules to carry out 38545
sections 4905.90 to 4905.96 of the Revised Code, including rules 38546
concerning pipe-line safety, drug testing, and enforcement 38547
procedures. The commission shall adopt these rules only after 38548
notice and opportunity for public comment. The rules adopted under 38549
this division and any orders issued under sections 4905.90 to 38550
4905.96 of the Revised Code constitute the pipe-line safety code. 38551
The commission shall administer and enforce that code. 38552

(2) Make certifications and reports to the United States 38553
department of transportation as required under the Natural Gas 38554
Pipeline Safety Act. 38555

(B) The commission may: 38556

(1) Investigate any service, act, practice, policy, or 38557
omission by any operator to determine its compliance with sections 38558
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 38559
code; 38560

(2) Investigate any intrastate pipe-line transportation 38561
facility to determine if it is hazardous to life or property, as 38562
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 38563

(3); 38564

(3) Investigate the existence or report of any safety-related 38565
condition that involves any intrastate pipe-line transportation 38566

facility; 38567

(4) Enter into and perform contracts or agreements with the 38568
United States department of transportation to inspect interstate 38569
transmission facilities pursuant to the Natural Gas Pipeline 38570
Safety Act; 38571

(5) Accept grants-in-aid, ~~funds~~ cash, and reimbursements 38572
provided for or made available to this state by the federal 38573
government to carry out the Natural Gas Pipeline Safety Act or to 38574
enforce sections 4905.90 to 4905.96 of the Revised Code and the 38575
pipe-line safety code. All such grants-in-aid, cash, and 38576
reimbursements shall be deposited to the credit of the gas 38577
pipe-line safety fund, which is hereby created in the state 38578
treasury, to be used by the commission for the purpose of carrying 38579
out this section. 38580

(C) The commission's regulation of gathering lines shall 38581
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 38582
192 and 199, as amended, and the commission's annual certification 38583
agreements with the United States department of transportation, 38584
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 38585
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 38586
apply to gathering lines. The procedural rules under chapter 38587
4901:1-16 of the Ohio Administrative Code shall also apply to 38588
operators of gathering lines. 38589

Sec. 4919.79. (A) The public utilities commission may adopt 38590
safety rules applicable to the highway transportation and offering 38591
for transportation of hazardous materials in interstate commerce, 38592
which highway transportation takes place into or through this 38593
state. 38594

(B) The commission may adopt safety rules applicable to the 38595
highway transportation of persons or property in interstate 38596
commerce, which transportation takes place into or through this 38597

state. 38598

(C) Rules adopted under divisions (A) and (B) of this section 38599
shall be consistent with, and equivalent in scope, coverage, and 38600
content to, the "Hazardous Materials Transportation Act," 88 Stat. 38601
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 38602
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 38603
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 38604
respectively. No person shall violate a rule adopted under 38605
division (A) or (B) of this section or any order of the commission 38606
issued to secure compliance with any such rule. 38607

(D) The commission shall cooperate with, and permit the use 38608
of, the services, records, and facilities of the commission as 38609
fully as practicable by appropriate officers of the interstate 38610
commerce commission, the United States department of 38611
transportation, and other federal agencies or commissions and 38612
appropriate commissions of other states in the enforcement and 38613
administration of state and federal laws relating to highway 38614
transportation by motor vehicles. The commission may enter into 38615
cooperative agreements with the interstate commerce commission, 38616
the United States department of transportation, and any other 38617
federal agency or commission to enforce the economic and safety 38618
laws and rules of this state and of the United States concerning 38619
highway transportation by motor vehicles. All grants-in-aid, cash, 38620
and reimbursements received by the commission pursuant to those 38621
cooperative agreements shall be deposited to the credit of the 38622
motor carrier safety fund, which is hereby created in the state 38623
treasury, to be used by the commission for the purpose of carrying 38624
out this section. 38625

(E) To achieve the purposes of this section, the commission 38626
may, through its inspectors or other authorized employees, inspect 38627
any vehicles of carriers of persons or property in interstate 38628
commerce subject to the safety rules prescribed by this section 38629

and may enter upon the premises and vehicles of such carriers to 38630
examine any of the carriers' records or documents that relate to 38631
the safety of operation of such carriers. In order to assist the 38632
commission in the performance of its duties under this section, 38633
authorized employees of the commercial motor vehicle safety 38634
enforcement unit, division of state highway patrol, of the 38635
department of public safety may enter in or upon, for purposes of 38636
inspection, any vehicle of any such carrier. 38637

In order to inspect motor vehicles owned or operated by 38638
private motor carriers of persons, authorized employees of the 38639
commercial motor vehicle safety enforcement unit, division of 38640
state highway patrol, of the department of public safety may enter 38641
in or upon the premises of any private carrier of persons in 38642
interstate commerce, subject to the safety rules prescribed by 38643
this section. 38644

Sec. 4931.45. (A) A final plan may be amended to expand the 38645
territory included in the countywide 9-1-1 system, to upgrade any 38646
part or all of a system from basic 9-1-1 to enhanced 9-1-1 38647
service, to adjust the territory served by a public safety 38648
answering point, to represcribe the funding of public safety 38649
answering points as between the alternatives set forth in division 38650
(B)(5) of section 4931.43 of the Revised Code, or to make any 38651
other necessary adjustments to the plan only by convening a new 38652
9-1-1 planning committee, and adopting an amended final plan. The 38653
convening of a new 9-1-1 planning committee and the proposal and 38654
adoption of an amended final plan shall be made in the same manner 38655
required for the convening of an initial committee and adoption of 38656
an original proposed and final plan under sections 4931.42 to 38657
4931.44 of the Revised Code. Adoption of any resolution under 38658
section 4931.51 of the Revised Code pursuant to a final plan that 38659
both has been adopted and provides for funding through charges 38660
imposed under that section is not an amendment of a final plan for 38661

the purpose of this division. 38662

(B) When a final plan is amended to expand the territory that 38663
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 38664
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 38665
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 38666
telephone company's recovery of the nonrecurring and recurring 38667
rates and charges for the telephone network portion of the system. 38668

Sec. 4931.47. (A) In accordance with Chapters 4901., 4903., 38669
4905., 4909., and 4931. of the Revised Code, the public utilities 38670
commission shall determine the just, reasonable, and compensatory 38671
rates, tolls, classifications, charges, or rentals to be observed 38672
and charged for the telephone network portion of a basic and 38673
enhanced 9-1-1 system, and each telephone company participating in 38674
the system shall be subject to such chapters, to the extent they 38675
apply, as to the service provided by its portion of the telephone 38676
network system as described in the final plan or to be installed 38677
pursuant to agreements under section 4931.48 of the Revised Code, 38678
and as to the rates, tolls, classifications, charges, or rentals 38679
to be observed and charged for that service. 38680

(B) Only the customers of a participating telephone company 38681
that are served within the area covered by a 9-1-1 system shall 38682
pay the recurring rates for the maintenance and operation of the 38683
telephone network in providing 9-1-1 service. Such rates shall be 38684
computed by dividing the total monthly recurring rates set forth 38685
in a telephone company's schedule as filed in accordance with 38686
section 4905.30 of the Revised Code, by the total number of 38687
residential and business customer access lines, or their 38688
equivalent, within the area served. Each residential and business 38689
customer within the area served shall pay the recurring rates 38690
based on the number of its residential and business customer 38691
access lines or their equivalent. No company may include such 38692

amount on any customer's bill until the company has completed its 38693
portion of the telephone network in accordance with the terms, 38694
conditions, requirements, and specifications of the final plan or 38695
an agreement made under section 4931.48 of the Revised Code. 38696

(C)(1) Except as otherwise provided in division (C)(2) of 38697
this section, the total nonrecurring charges for the telephone 38698
network used in providing 9-1-1 service, as set forth in the 38699
schedule filed by a telephone company in accordance with section 38700
4905.30 of the Revised Code, on completion of the installation of 38701
the network in accordance with the terms, conditions, 38702
requirements, and specifications of the final plan or pursuant to 38703
section 4931.48 of the Revised Code shall be recovered by the 38704
company through the credit authorized by section ~~5727.39~~ 5733.55 38705
of the Revised Code. 38706

(2) The credit shall not be allowed for upgrading of a system 38707
from basic to enhanced 9-1-1 service when: 38708

(a) The telephone company received the credit for the 38709
telephone network portion of the basic 9-1-1 system now proposed 38710
to be upgraded; and 38711

(b) At the time the final plan or agreement pursuant to 38712
section 4931.48 of the Revised Code calling for the basic 9-1-1 38713
system was agreed to, the telephone company was capable of 38714
reasonably meeting the technical and economic requirements of 38715
providing the telephone network portion of an enhanced 9-1-1 38716
system within the territory proposed to be upgraded, as determined 38717
by the public utilities commission under division (A) or (H) of 38718
section 4931.41 or division (C) of section 4931.48 of the Revised 38719
Code. 38720

(3) When the credit is not allowed under division (C)(2) of 38721
this section, the total nonrecurring charges for the telephone 38722
network used in providing 9-1-1 service, as set forth in the 38723

schedule filed by a telephone company in accordance with section 38724
4905.30 of the Revised Code, on completion of the installation of 38725
the network in accordance with the terms, conditions, 38726
requirements, and specifications of the final plan or pursuant to 38727
section 4931.48 of the Revised Code, shall be paid by the 38728
municipal corporations and townships with any territory in the 38729
area in which such upgrade from basic to enhanced 9-1-1 service is 38730
made. 38731

(D) Where customer premises equipment for a public safety 38732
answering point is supplied by a telephone company that is 38733
required to file a schedule under section 4905.30 of the Revised 38734
Code pertaining to customer premises equipment, the recurring and 38735
nonrecurring rates and charges for the installation and 38736
maintenance of the equipment specified in the schedule shall 38737
apply. 38738

Sec. 4931.48. (A) If a final plan is disapproved under 38739
division (B) of section 4931.44 of the Revised Code, by 38740
resolution, the legislative authority of a municipal corporation 38741
or township that contains at least thirty per cent of the county's 38742
population may establish within its boundaries, or the legislative 38743
authorities of a group of municipal corporations or townships each 38744
of which is contiguous with at least one other such municipal 38745
corporation or township in the group, together containing at least 38746
thirty per cent of the county's population, may jointly establish 38747
within their boundaries a 9-1-1 system. For this purpose, the 38748
municipal corporation or township may enter into an agreement, and 38749
the contiguous municipal corporations or townships may jointly 38750
enter into an agreement with a telephone company providing service 38751
in the municipal corporations or townships to provide for the 38752
telephone network portion of the system. 38753

(B) If no resolution has been adopted to convene a 9-1-1 38754

planning committee under section 4931.42 of the Revised Code, but 38755
not sooner than eighteen months after the effective date of such 38756
section, by resolution, the legislative authority of any municipal 38757
corporation in the county may establish within its boundaries, or 38758
the legislative authorities of a group of municipal corporations 38759
and townships each of which is contiguous to at least one of the 38760
other such municipal corporations or townships in the group may 38761
jointly establish within their boundaries, a 9-1-1 system. The 38762
municipal corporation or contiguous municipal corporations and 38763
townships, may enter into an agreement with a telephone company 38764
serving ~~customers~~ customers within the boundaries of the municipal 38765
corporation or contiguous municipal corporations and townships, to 38766
provide for the telephone network portion of a 9-1-1 system. 38767

(C) Whenever a telephone company and one or more municipal 38768
corporations and townships enter into an agreement under this 38769
section to provide for the telephone network portion of a basic 38770
9-1-1 system, the telephone company shall so notify the public 38771
utilities commission, which shall determine whether the telephone 38772
company is capable of reasonably meeting the technical and 38773
economic requirements of providing the telephone network for an 38774
enhanced system within the territory served by the company and 38775
covered by the agreement. The determination shall be made solely 38776
for the purposes of division (C)(2) of section 4931.47 of the 38777
Revised Code. 38778

(D) Within three years from the date of entering into an 38779
agreement under division (A) or (B) of this section, the telephone 38780
company shall have installed the telephone network portion of the 38781
9-1-1 system according to the terms, conditions, requirements, and 38782
specifications set forth in the agreement. 38783

(E) The telephone company shall recover the cost of 38784
installing the telephone network system pursuant to agreements 38785
made under this section as provided in ~~sections~~ section 4931.47 38786

~~and 5727.39~~ of the Revised Code, as authorized under section 38787
5733.55 of the Revised Code. 38788

Sec. 4973.17. (A) Upon the application of any bank, building 38789
and loan association, or association of banks or building and loan 38790
associations in this state, the governor may appoint and 38791
commission any persons that the bank, building and loan 38792
association, or association of banks or building and loan 38793
associations designates, or as many of those persons as the 38794
governor considers proper, to act as police officers for and on 38795
the premises of that bank, building and loan association, or 38796
association of banks or building and loan associations, or 38797
elsewhere, when directly in the discharge of their duties. Police 38798
officers so appointed shall be citizens of this state and of good 38799
character. They shall hold office for three years, unless, for 38800
good cause shown, their commission is revoked by the governor, or 38801
by the bank, building and loan association, or association of 38802
banks or building and loan associations, as provided by law. 38803

(B) Upon the application of a company owning or using a 38804
railroad in this state and subject to section 4973.171 of the 38805
Revised Code, the governor may appoint and commission any persons 38806
that the railroad company designates, or as many of those persons 38807
as the governor considers proper, to act as police officers for 38808
and on the premises of the railroad company, its affiliates or 38809
subsidiaries, or elsewhere, when directly in the discharge of 38810
their duties. Police officers so appointed, within the time set by 38811
the Ohio peace officer training commission, shall successfully 38812
complete a commission approved training program and be certified 38813
by the commission. They shall hold office for three years, unless, 38814
for good cause shown, their commission is revoked by the governor, 38815
or railroad company, as provided by law. 38816

Any person holding a similar commission in another state may 38817

be commissioned and may hold office in this state without 38818
completing the approved training program required by this division 38819
provided that ~~that~~ the person has completed a substantially 38820
equivalent training program in the other state. The Ohio peace 38821
officer training commission shall determine whether a training 38822
program in another state meets the requirements of this division. 38823

(C) Upon the application of any company under contract with 38824
the United States atomic energy commission for the construction or 38825
operation of a plant at a site owned by ~~such~~ the commission, the 38826
governor may appoint and commission ~~such~~ persons ~~as~~ the company 38827
designates, not to exceed one hundred fifty, to act as police 38828
officers for the company at the plant or site owned by ~~such~~ the 38829
commission. Police officers so appointed shall be citizens of this 38830
state and of good character. They shall hold office for three 38831
years, unless, for good cause shown, their commission is revoked 38832
by the governor or by the company, as provided by law. 38833

(D)(1) Upon the application of any hospital that is operated 38834
by a public hospital agency or a nonprofit hospital agency and 38835
that employs and maintains its own proprietary police department 38836
or security department and subject to section 4973.171 of the 38837
Revised Code, the governor may appoint and commission any persons 38838
that the hospital designates, or as many of those persons as the 38839
governor considers proper, to act as police officers for the 38840
hospital. No person who is appointed as a police officer under 38841
this division shall engage in any duties or activities as a police 38842
officer for the hospital or any affiliate or subsidiary of the 38843
hospital unless all of the following apply: 38844

(a) The chief of police of the municipal corporation in which 38845
the hospital is located, or, if the hospital is located in the 38846
unincorporated area of a county, the sheriff of that county, has 38847
granted approval to the hospital to permit persons appointed as 38848
police officers under this division to engage in those duties and 38849

activities. The approval required by this division is general in 38850
nature and is intended to cover in the aggregate all persons 38851
appointed as police officers for the hospital under this division; 38852
a separate approval is not required for each appointee on an 38853
individual basis. 38854

(b) Subsequent to the grant of approval described in division 38855
(D)(1)(a) of this section, the hospital has entered into a written 38856
agreement with the chief of police of the municipal corporation in 38857
which the hospital is located, or, if the hospital is located in 38858
the unincorporated area of a county, with the sheriff of that 38859
county, that sets forth the standards and criteria to govern the 38860
interaction and cooperation between persons appointed as police 38861
officers for the hospital under this division and law enforcement 38862
officers serving the agency represented by the chief of police or 38863
sheriff who signed the agreement in areas of their concurrent 38864
jurisdiction. The written agreement shall be signed by the 38865
appointing authority of the hospital and by the chief of police or 38866
sheriff. The standards and criteria may include, but are not 38867
limited to, provisions governing the reporting of offenses 38868
discovered by hospital police officers to the agency represented 38869
by the chief of police or sheriff, provisions governing 38870
investigatory responsibilities relative to offenses committed on 38871
hospital property, and provisions governing the processing and 38872
confinement of persons arrested for offenses committed on hospital 38873
property. The agreement required by this division is intended to 38874
apply in the aggregate to all persons appointed as police officers 38875
for the hospital under this division; a separate agreement is not 38876
required for each appointee on an individual basis. 38877

(c) The person has successfully completed a training program 38878
approved by the Ohio peace officer training commission and has 38879
been certified by the commission. A person appointed as a police 38880
officer under this division may attend a training program approved 38881

by the commission and be certified by the commission regardless of 38882
whether the appropriate chief of police or sheriff has granted the 38883
approval described in division (D)(1)(a) of this section and 38884
regardless of whether the hospital has entered into the written 38885
agreement described in division (D)(1)(b) of this section with the 38886
appropriate chief of police or sheriff. 38887

(2)(a) A person who is appointed as a police officer under 38888
division (D)(1) of this section is entitled, upon the grant of 38889
approval described in division (D)(1)(a) of this section and upon 38890
~~that~~ the person's and the hospital's compliance with the 38891
requirements of divisions (D)(1)(b) and (c) of this section, to 38892
act as a police officer for the hospital on the premises of the 38893
hospital and of its affiliates and subsidiaries that are within 38894
the territory of the municipal corporation served by the chief of 38895
police or the unincorporated area of the county served by the 38896
sheriff who signed the written agreement described in division 38897
(D)(1)(b) of this section, whichever is applicable, and anywhere 38898
else within the territory of that municipal corporation or within 38899
the unincorporated area of that county. The authority to act as a 38900
police officer as described in this division is granted only if 38901
the person, when engaging in that activity, is directly in the 38902
discharge of ~~that~~ the person's duties as a police officer for the 38903
hospital. The authority to act as a police officer as described in 38904
this division shall be exercised in accordance with the standards 38905
and criteria set forth in the written agreement described in 38906
division (D)(1)(b) of this section. 38907

(b) Additionally, a person appointed as a police officer 38908
under division (D)(1) of this section is entitled, upon the grant 38909
of approval described in division (D)(1)(a) of this section and 38910
upon ~~that~~ the person's and the hospital's compliance with the 38911
requirements of divisions (D)(1)(b) and (c) of this section, to 38912
act as a police officer elsewhere, within the territory of a 38913

municipal corporation or within the unincorporated area of a 38914
county, if the chief of police of that municipal corporation or 38915
the sheriff of that county, respectively, has granted approval for 38916
that activity to the hospital, police department, or security 38917
department served by the person as a police officer and if the 38918
person, when engaging in that activity, is directly in the 38919
discharge of ~~the~~ the person's duties as a police officer for the 38920
hospital. The approval described in this division may be general 38921
in nature or may be limited in scope, duration, or applicability, 38922
as determined by the chief of police or sheriff granting the 38923
approval. 38924

(3) Police officers appointed under division (D)(1) of this 38925
section shall hold office for three years, unless, for good cause 38926
shown, their commission is revoked by the governor or by the 38927
hospital, as provided by law. As used in divisions (D)(1) to (3) 38928
of this section, "public hospital agency" and "nonprofit hospital 38929
agency" have the same ~~meaning~~ meanings as in section 140.01 of the 38930
Revised Code. 38931

(E) A fee of ~~five~~ fifteen dollars for each commission applied 38932
for under this section shall be paid at the time the application 38933
is made, and this amount shall be returned if for any reason a 38934
commission is not issued. 38935

Sec. 5101.11. This section does not apply to contracts 38936
entered into under section ~~5111.022~~, 5111.90~~7~~, or 5111.91 of the 38937
Revised Code. 38938

(A) As used in this section: 38939

(1) "Entity" includes an agency, board, commission, or 38940
department of the state or a political subdivision of the state; a 38941
private, nonprofit entity; a school district; a private school; or 38942
a public or private institution of higher education. 38943

(2) "Federal financial participation" means the federal 38944
government's share of expenditures made by an entity in 38945
implementing a program administered by the department of job and 38946
family services. 38947

(B) At the request of any public entity having authority to 38948
implement a program administered by the department of job and 38949
family services or any private entity under contract with a public 38950
entity to implement a program administered by the department, the 38951
department may seek to obtain federal financial participation for 38952
costs incurred by the entity. Federal financial participation may 38953
be sought from programs operated pursuant to Title IV-A, Title 38954
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 38955
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 38956
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 38957
regulation under which federal financial participation may be 38958
available, except that federal financial participation may be 38959
sought only for expenditures made with funds for which federal 38960
financial participation is available under federal law. 38961

(C) All funds collected by the department of job and family 38962
services pursuant to division (B) of this section shall be 38963
distributed to the entities that incurred the costs, except for 38964
any amounts retained by the department pursuant to division (D)(3) 38965
of this section. 38966

(D) In distributing federal financial participation pursuant 38967
to this section, the department may either enter into an agreement 38968
with the entity that is to receive the funds or distribute the 38969
funds in accordance with rules adopted under division (F) of this 38970
section. If the department decides to enter into an agreement to 38971
distribute the funds, the agreement may include terms that do any 38972
of the following: 38973

(1) Provide for the whole or partial reimbursement of any 38974

cost incurred by the entity in implementing the program;	38975
(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;	38976 38977 38978 38979 38980 38981
(3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;	38982 38983 38984
(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;	38985 38986 38987
(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;	38988 38989
(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.	38990 38991 38992
(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services for the use of the funds to improve and expand the program.	38993 38994 38995 38996 38997
(F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.	38998 38999 39000 39001 39002 39003 39004 39005

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

Sec. 5101.12. The department of job and family services shall maximize its receipt of federal revenue. In fulfilling this duty, the department may enter into contracts to maximize federal revenue without the expenditure of state money. In selecting entities with which to contract, the department shall engage in a request for proposals process.

Each year in January and July, the department shall submit a report to the office of budget and management outlining the department's success in maximizing federal revenue. The office of budget and management shall establish procedures and requirements for preparing and submitting the reports and shall compile data concerning the amount of federal revenue received by the department. The department shall submit a copy of each of its reports to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the legislative service commission.

Sec. 5101.14. (A) As used in this section and section 5101.144 of the Revised Code, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.

(B) Within available funds, the department of job and family services shall ~~make payments~~ distribute funds to the counties within thirty days after the beginning of each calendar quarter for a part of ~~their~~ the counties' costs for children services ~~to children performed pursuant to Chapter 5153. of the Revised Code.~~

Funds provided to the county under this section shall be deposited into the children services fund created pursuant to

section 5101.144 of the Revised Code. 39036

~~(B)(1) The funds distributed under this section shall be used 39037
for the following: 39038~~

~~(a) Home-based services to children and families; 39039~~

~~(b) Protective services to children; 39040~~

~~(c) To find, develop, and approve adoptive homes; 39041~~

~~(d) Short-term, out-of-home care and treatment for children; 39042~~

~~(e) Costs for the care of a child who resides with a 39043
caretaker relative, other than the child's parent, and is in the 39044
legal custody of a public children services agency pursuant to a 39045
voluntary temporary custody agreement entered into under division 39046
(A) of section 5103.15 of the Revised Code or in the legal custody 39047
of a public children services agency or the caretaker relative 39048
pursuant to an allegation or adjudication of abuse, neglect, or 39049
dependency made under Chapter 2151. of the Revised Code; 39050~~

~~(f) Other services a public children services agency 39051
considers necessary to protect children from abuse, neglect, or 39052
dependency. 39053~~

~~(2) No funds distributed under this section shall be used for 39054
the costs of maintaining a child in a children's home owned and 39055
operated by the county. 39056~~

(C) In each fiscal year, the amount of funds available for 39057
distribution under this section shall be allocated to counties as 39058
follows: 39059

(1) If the amount is less than the amount initially 39060
appropriated for the immediately preceding fiscal year, each 39061
county shall receive an amount equal to the percentage of the 39062
funding it received in the immediately preceding fiscal year, 39063
exclusive of any releases from or additions to the allocation or 39064
any sanctions imposed under this section; 39065

(2) If the amount is equal to the amount initially 39066
appropriated for the immediately preceding fiscal year, each 39067
county shall receive an amount equal to the amount it received in 39068
the preceding fiscal year, exclusive of any releases from or 39069
additions to the allocation or any sanctions imposed under this 39070
section; 39071

(3) If the amount is greater than the amount initially 39072
appropriated for the immediately preceding fiscal year, each 39073
county shall receive the amount determined under division (C)(2) 39074
of this section as a base allocation, plus a percentage of the 39075
amount that exceeds the amount initially appropriated for the 39076
immediately preceding fiscal year. The amount exceeding the amount 39077
initially appropriated in the immediately preceding fiscal year 39078
shall be allocated to the counties as follows: 39079

(a) Twelve per cent divided equally among all counties; 39080

(b) Forty-eight per cent in the ratio that the number of 39081
residents of the county under the age of eighteen bears to the 39082
total number of such persons residing in this state; 39083

(c) Forty per cent in the ratio that the number of residents 39084
of the county with incomes under the federal poverty guideline 39085
bears to the total number of such persons in this state. 39086

As used in division (C)(3)(c) of this section, "federal 39087
poverty guideline" means the poverty guideline as defined by the 39088
United States office of management and budget and revised by the 39089
United States secretary of health and human services in accordance 39090
with section 673 of the "Community Services Block Grant Act," 95 39091
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 39092

~~(D) The director of job and family services may adopt rules 39093
as necessary for the allocation of funds under this section. The 39094
rules shall be adopted in accordance with section 111.15 of the 39095
Revised Code. 39096~~

~~(E)(1) As used in this division, "services to children" means children's protective services, home based services to children and families, foster home services, residential treatment services, adoptive services, and independent living services.~~ 39097
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~~(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds was less than the total expended from that source in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.~~ 39101
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~~The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:~~ 39110
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~~(a) An across the board reduction in the county budget as a whole;~~ 39115
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~~(b) A reduced or failed levy specifically earmarked for children services;~~ 39117
39118

~~(c) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.~~ 39119
39120

~~(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole or partial waivers of the provisions of this division.~~ 39121
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~~(F) Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution, or who are in adoptions subsidized under division (B) of section~~ 39124
39125
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~~5153.163 of the Revised Code are eligible for medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.~~ 39127
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~~(G)~~ Within ninety days after the end of each state fiscal year biennium, each county shall return any unspent funds to the department. 39130
39131
39132

~~(H) In accordance with Chapter 119. of the Revised Code, the~~ 39133
~~(E)~~ The director shall of job and family services may adopt, and may amend and rescind, the following rules in accordance with section 111.15 of the Revised Code: 39134
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(1) Rules that are necessary for the allocation of funds under this section; 39137
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(2) Rules prescribing reports on expenditures to be submitted by the counties as necessary for the implementation of this section. 39139
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Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 of the Revised Code, "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended. 39142
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(B) The department of job and family services shall act as the single state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E ~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.~~ The director of job and family services shall adopt rules to implement this authority. Internal management rules governing financial and administrative requirements applicable to public children services agencies, ~~private child placing agencies,~~ and ~~private noncustodial agencies~~ government entities that provide Title IV-E reimbursable placement services to children shall be adopted in accordance with section 111.15 of the Revised Code. Rules governing requirements applicable to private child placing 39145
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agencies and private noncustodial agencies and rules establishing 39157
eligibility, program participation, and other requirements 39158
concerning Title IV-E shall be adopted in accordance with Chapter 39159
119. of the Revised Code. A public children services agency to 39160
which the department distributes Title IV-E funds shall administer 39161
the funds in accordance with those rules. 39162

~~(B)~~(C)(1) The county, on behalf of each child eligible for 39163
foster care maintenance payments under Title IV-E ~~of the "Social~~ 39164
~~Security Act,"~~ shall make payments to cover the cost of providing 39165
all of the following: 39166

(a) The child's food, clothing, shelter, daily supervision, 39167
and school supplies; 39168

(b) The child's personal incidentals; 39169

(c) Reasonable travel to the child's home for visitation. 39170

(2) In addition to payments made under division ~~(B)~~(C)(1) of 39171
this section, the county may, on behalf of each child eligible for 39172
foster care maintenance payments under Title IV-E ~~of the "Social~~ 39173
~~Security Act,"~~ make payments to cover the cost of providing the 39174
following: 39175

(a) Liability insurance with respect to the child; 39176

(b) If the county is participating in the demonstration 39177
project established under division (A) of section 5101.142 of the 39178
Revised Code, services provided under the project. 39179

(3) With respect to a child who is in a child-care 39180
institution, including any type of group home designed for the 39181
care of children or any privately operated program consisting of 39182
two or more certified foster homes operated by a common 39183
administrative unit, the foster care maintenance payments made by 39184
the county on behalf of the child shall include the reasonable 39185
cost of the administration and operation of the institution, group 39186

home, or program, as necessary to provide the items described in 39187
divisions ~~(B)~~(C)(1) and (2) of this section. 39188

~~(C)~~(D) To the extent that either foster care maintenance 39189
payments under division ~~(B)~~ (C) of this section or Title IV-E 39190
adoption assistance payments for maintenance costs require the 39191
expenditure of county funds, the board of county commissioners 39192
shall report the nature and amount of each expenditure of county 39193
funds to the department. 39194

~~(D)~~(E) The department shall distribute to public children 39195
services agencies that incur and report such expenditures federal 39196
financial participation received for administrative and training 39197
costs incurred in the operation of foster care maintenance and 39198
adoption assistance programs. The department may withhold not more 39199
than three per cent of the federal financial participation 39200
received. The funds withheld may be used only to fund the Ohio 39201
child welfare training program established under section 5153.60 39202
of the Revised Code and the university partnership program for 39203
college and university students majoring in social work who have 39204
committed to work for a public children services agency upon 39205
graduation. The funds withheld shall be in addition to any 39206
administration and training cost for which the department is 39207
reimbursed through its own cost allocation plan. 39208

~~(E)~~(F) All federal financial participation funds received by 39209
a county pursuant to this section shall be deposited into the 39210
county's children services fund created pursuant to section 39211
5101.144 of the Revised Code. 39212

~~(F)~~(G) The department shall periodically publish and 39213
distribute the maximum amounts that the department will reimburse 39214
public children services agencies for making payments on behalf of 39215
children eligible for foster care maintenance payments. 39216

~~(G)~~(H) The department, by and through its director, is hereby 39217

authorized to develop, participate in the development of, 39218
negotiate, and enter into one or more interstate compacts on 39219
behalf of this state with agencies of any other states, for the 39220
provision of medical assistance and other social services to 39221
children in relation to whom all of the following apply: 39222

(1) They have special needs. 39223

(2) This state or another state that is a party to the 39224
interstate compact is providing adoption assistance on their 39225
behalf. 39226

(3) They move into this state from another state or move out 39227
of this state to another state. 39228

Sec. 5101.142. (A) The department of job and family services 39229
may apply to the United States secretary of health and human 39230
services for a waiver of requirements established under Title IV-E 39231
~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670~~ 39232
~~(1980)~~, or regulations adopted thereunder, to conduct a 39233
demonstration project expanding eligibility for and services 39234
provided under Title IV-E. The department may enter into 39235
agreements with the secretary necessary to implement the 39236
demonstration project, including agreements establishing the terms 39237
and conditions of the waiver authorizing the project. If a 39238
demonstration project is to be established, the department shall 39239
do all of the following: 39240

(1) Have the director of job and family services adopt rules 39241
in accordance with Chapter 119. of the Revised Code governing the 39242
project. The rules shall be consistent with the agreements the 39243
department enters into with the secretary. 39244

(2) Enter into agreements with public children services 39245
agencies that the department selects for participation in the 39246
project. The department shall not select an agency that objects to 39247

participation or refuses to be bound by the terms and conditions of the project.	39248 39249
(3) Contract with persons or governmental agencies providing services under the project;	39250 39251
(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 implement the project;	39252 39253 39254
(5) Conduct ongoing evaluations of the project;	39255
(6) Perform other administrative and operational activities required by the agreement with the secretary.	39256 39257
(B) The department may apply to the United States secretary of health and human services for a waiver of the requirements established under Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder and established under any other federal law or regulations that affect the children services functions prescribed by Chapter 5153. of the Revised Code, to conduct demonstration projects or otherwise improve the effectiveness and efficiency of the children services function.	39258 39259 39260 39261 39262 39263 39264 39265 39266
Sec. 5101.144. As used in this section, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.	39267 39268 39269
Each county shall deposit all funds its public children services agency receives from appropriations made by the board of county commissioners or any other source for the purpose of providing children services into a special fund in the county treasury known as the children services fund. A county shall use money in the fund only for the purposes of meeting the expenses of providing children services.	39270 39271 39272 39273 39274 39275 39276

Sec. 5101.145. (A) ~~For the purposes of this section, "Title~~ 39277
~~IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501,~~ 39278
~~42 U.S.C.A. 670 (1980).~~ 39279

~~(B)~~ In adopting rules under section 5101.141 of the Revised 39280
Code regarding financial requirements applicable to public 39281
children services agencies, private child placing agencies, ~~and~~ 39282
private noncustodial agencies, and government entities that 39283
provide Title IV-E reimbursable placement services to children, 39284
the department of job and family services shall establish both of 39285
the following: 39286

(1) A single form for the agencies or entities to report 39287
costs reimbursable under Title IV-E and costs reimbursable under 39288
medicaid; 39289

(2) Procedures to monitor cost reports submitted by the 39290
agencies or entities. 39291

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 39292
this section shall be implemented not later than October 1, 2003. 39293
The procedures shall be used to do both of the following: 39294

(1) Determine which of the costs are reimbursable under Title 39295
IV-E; 39296

(2) Ensure that costs reimbursable under medicaid are 39297
excluded from determinations made under division ~~(C)~~(B)(1) of this 39298
section. 39299

Sec. 5101.146. The department of job and family services 39300
shall establish the following penalties, which shall be enforced 39301
at the discretion of the department, for the failure of a public 39302
children services agency, private child placing agency, ~~or~~ private 39303
noncustodial agency, or government entity that provides Title IV-E 39304
reimbursable placement services to children to comply with 39305

procedures the department establishes to ensure fiscal 39306
accountability: 39307

(A) For initial failure, the department and the agency or 39308
entity involved shall jointly develop and implement a corrective 39309
action plan according to a specific schedule. If requested by the 39310
agency or entity involved, the department shall provide technical 39311
assistance to the agency or entity to ensure the fiscal 39312
accountability procedures and goals of the plan are met. 39313

(B) For subsequent failures or failure to achieve the goals 39314
of the plan described in division (A) of this section, ~~either~~ one 39315
of the following: 39316

(1) For public children services agencies, the department may 39317
take any action permitted under division (B)(3), (4), or (5) of 39318
section 5101.24 of the Revised Code. 39319

(2) For private child placing agencies or private 39320
noncustodial agencies, cancellation of any Title IV-E allowability 39321
rates for the agency involved pursuant to section 5101.141 of the 39322
Revised Code or revocation pursuant to Chapter 119. of the Revised 39323
Code of that agency's certificate issued under section 5103.03 of 39324
the Revised Code; 39325

(3) For government entities, other than public children 39326
services agencies, that provide Title IV-E reimbursable placement 39327
services to children, cancellation of any Title IV-E allowability 39328
rates for the entity involved pursuant to section 5101.141 of the 39329
Revised Code. 39330

Sec. 5101.1410. In addition to the remedies available under 39331
sections 5101.146 and 5101.24 of the Revised Code, the department 39332
of job and family services may certify a claim to the attorney 39333
general under section 131.02 of the Revised Code for the attorney 39334
general to take action under that section against a public 39335

children services agency, private child placing agency, private 39336
noncustodial agency, or government entity that provides Title IV-E 39337
reimbursable placement services to children if all of the 39338
following are the case: 39339

(A) The agency or entity files a cost report with the 39340
department pursuant to rules adopted under division (B) of section 39341
5101.141 of the Revised Code. 39342

(B) The department receives and distributes federal Title 39343
IV-E reimbursement funds based on the cost report. 39344

(C) The agency's or entity's misstatement, misclassification, 39345
overstatement, understatement, or other inclusion or omission of 39346
any cost included in the cost report causes the United States 39347
department of health and human services to disallow all or part of 39348
the federal Title IV-E reimbursement funds the department received 39349
and distributed. 39350

Sec. 5101.16. (A) As used in this section and sections 39351
5101.161 and 5101.162 of the Revised Code: 39352

(1) "Disability financial assistance" means the financial and 39353
medical assistance provided program established under Chapter 39354
5115. of the Revised Code. 39355

(2) "Disability medical assistance" means the medical 39356
assistance program established under Chapter 5115. of the Revised 39357
Code. 39358

(3) "Food stamps" means the program administered by the 39359
department of job and family services pursuant to section 5101.54 39360
of the Revised Code. 39361

~~(3)~~(4) "Medicaid" means the medical assistance program 39362
established by Chapter 5111. of the Revised Code, excluding 39363
transportation services provided under that chapter. 39364

~~(4)~~(5) "Ohio works first" means the program established by 39365

Chapter 5107. of the Revised Code.	39366
(5) (6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.	39367 39368
(6) (7) "Public assistance expenditures" means expenditures for all of the following:	39369 39370
(a) Ohio works first;	39371
(b) County administration of Ohio works first;	39372
(c) Prevention, retention, and contingency;	39373
(d) County administration of prevention, retention, and contingency;	39374 39375
(e) Disability <u>financial</u> assistance;	39376
(f) <u>Disability medical assistance</u> ;	39377
(g) County administration of disability <u>financial</u> assistance;	39378
(g) (h) <u>County administration of disability medical assistance</u> ;	39379 39380
(i) County administration of food stamps;	39381
(h) (j) County administration of medicaid.	39382
<u>(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.</u>	39383 39384
(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:	39385 39386 39387 39388 39389 39390
(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	39391 39392 39393

~~disability assistance~~ those programs during the state fiscal year 39394
ending in the previous calendar year that the department of job 39395
and family services determines are allowable. 39396

(2) The amount that is ten per cent, or other percentage 39397
determined under division (D) of this section, of the county's 39398
total expenditures for county administration of food stamps and 39399
medicaid during the state fiscal year ending in the previous 39400
calendar year that the department determines are allowable, less 39401
the amount of federal reimbursement credited to the county under 39402
division (E) of this section for the state fiscal year ending in 39403
the previous calendar year; 39404

~~(3)(a) Except as provided in division (B)(3)(b) of this~~ 39405
~~section, A percentage of the actual amount, as determined by the~~ 39406
~~department of job and family services from expenditure reports~~ 39407
~~submitted to the United States department of health and human~~ 39408
~~services, of the county share of program and administrative~~ 39409
expenditures during federal fiscal year 1994 for assistance and 39410
services, other than child day-care, provided under Titles IV-A 39411
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 39412
U.S.C. 301, as those titles existed prior to the enactment of the 39413
"Personal Responsibility and Work Opportunity Reconciliation Act 39414
of 1996," 110 Stat. 2105. The department of job and family 39415
services shall determine the actual amount of the county share 39416
from expenditure reports submitted to the United States department 39417
of health and human services. The percentage shall be the 39418
percentage established in rules adopted under division (F) of this 39419
section. 39420

~~(b) For state fiscal years 2000 and 2001, seventy seven per~~ 39421
~~cent of the amount determined under division (B)(3)(a) of this~~ 39422
~~section.~~ 39423

(C)(1) If a county's share of public assistance expenditures 39424
determined under division (B) of this section for a state fiscal 39425

year exceeds one hundred ten per cent of the county's share for 39426
those expenditures for the immediately preceding state fiscal 39427
year, the department of job and family services shall reduce the 39428
county's share for expenditures under divisions (B)(1) and (2) of 39429
this section so that the total of the county's share for 39430
expenditures under division (B) of this section equals one hundred 39431
ten per cent of the county's share of those expenditures for the 39432
immediately preceding state fiscal year. 39433

(2) A county's share of public assistance expenditures 39434
determined under division (B) of this section may be increased 39435
pursuant to a sanction under section 5101.24 of the Revised Code. 39436

(D)(1) If the per capita tax duplicate of a county is less 39437
than the per capita tax duplicate of the state as a whole and 39438
division (D)(2) of this section does not apply to the county, the 39439
percentage to be used for the purpose of division (B)(2) of this 39440
section is the product of ten multiplied by a fraction of which 39441
the numerator is the per capita tax duplicate of the county and 39442
the denominator is the per capita tax duplicate of the state as a 39443
whole. The department of job and family services shall compute the 39444
per capita tax duplicate for the state and for each county by 39445
dividing the tax duplicate for the most recent available year by 39446
the current estimate of population prepared by the department of 39447
development. 39448

(2) If the percentage of families in a county with an annual 39449
income of less than three thousand dollars is greater than the 39450
percentage of such families in the state and division (D)(1) of 39451
this section does not apply to the county, the percentage to be 39452
used for the purpose of division (B)(2) of this section is the 39453
product of ten multiplied by a fraction of which the numerator is 39454
the percentage of families in the state with an annual income of 39455
less than three thousand dollars a year and the denominator is the 39456
percentage of such families in the county. The department of job 39457

and family services shall compute the percentage of families with 39458
an annual income of less than three thousand dollars for the state 39459
and for each county by multiplying the most recent estimate of 39460
such families published by the department of development, by a 39461
fraction, the numerator of which is the estimate of average annual 39462
personal income published by the bureau of economic analysis of 39463
the United States department of commerce for the year on which the 39464
census estimate is based and the denominator of which is the most 39465
recent such estimate published by the bureau. 39466

(3) If the per capita tax duplicate of a county is less than 39467
the per capita tax duplicate of the state as a whole and the 39468
percentage of families in the county with an annual income of less 39469
than three thousand dollars is greater than the percentage of such 39470
families in the state, the percentage to be used for the purpose 39471
of division (B)(2) of this section shall be determined as follows: 39472

(a) Multiply ten by the fraction determined under division 39473
(D)(1) of this section; 39474

(b) Multiply the product determined under division (D)(3)(a) 39475
of this section by the fraction determined under division (D)(2) 39476
of this section. 39477

(4) The department of job and family services shall 39478
determine, for each county, the percentage to be used for the 39479
purpose of division (B)(2) of this section not later than the 39480
first day of July of the year preceding the state fiscal year for 39481
which the percentage is used. 39482

(E) The department of job and family services shall credit to 39483
a county the amount of federal reimbursement the department 39484
receives from the United States departments of agriculture and 39485
health and human services for the county's expenditures for 39486
administration of food stamps and medicaid that the department 39487
determines are allowable administrative expenditures. 39488

(F)(1) The director of job and family services shall adopt 39489
rules in accordance with section 111.15 of the Revised Code to 39490
establish all of the following: 39491

~~(1)(a)~~ The method the department is to use to change a 39492
county's share of public assistance expenditures determined under 39493
division (B) of this section as provided in division (C) of this 39494
section; 39495

~~(2)(b)~~ The allocation methodology and formula the department 39496
will use to determine the amount of funds to credit to a county 39497
under this section; 39498

~~(3)(c)~~ The method the department will use to change the 39499
payment of the county share of public assistance expenditures from 39500
a calendar-year basis to a state fiscal year basis; 39501

~~(4)(d)~~ The percentage to be used for the purpose of division 39502
(B)(3) of this section, which shall meet both of the following 39503
requirements: 39504

(i) The percentage shall not be less than seventy-five per 39505
cent nor more than eighty-two per cent; 39506

(ii) The percentage shall not exceed the percentage that the 39507
state's qualified state expenditures is of the state's historic 39508
state expenditures as those terms are defined in 42 U.S.C. 39509
609(a)(7). 39510

(e) Other procedures and requirements necessary to implement 39511
this section. 39512

(2) The director of job and family services may amend the 39513
rule adopted under division (F)(1)(d) of this section to modify 39514
the percentage on determination that the amount the general 39515
assembly appropriates for Title IV-A programs makes the 39516
modification necessary. The rule shall be adopted and amended as 39517
if an internal management rule and in consultation with the 39518

director of budget and management. 39519

Sec. 5101.18. (A) When the director of job and family 39520
services adopts rules under section 5107.05 regarding income 39521
requirements for the Ohio works first program and under section 39522
~~5115.05~~ 5115.03 of the Revised Code regarding income and resource 39523
requirements for the disability financial assistance program, the 39524
director shall determine what payments shall be regarded or 39525
disregarded. In making this determination, the director shall 39526
consider: 39527

(1) The source of the payment; 39528

(2) The amount of the payment; 39529

(3) The purpose for which the payment was made; 39530

(4) Whether regarding the payment as income would be in the 39531
public interest; 39532

(5) Whether treating the payment as income would be 39533
detrimental to any of the programs administered in whole or in 39534
part by the department of job and family services and whether such 39535
determination would jeopardize the receipt of any federal grant or 39536
payment by the state or any receipt of aid under Chapter 5107. of 39537
the Revised Code. 39538

(B) Any recipient of aid under Title XVI of the "Social 39539
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 39540
whose money payment is discontinued as the result of a general 39541
increase in old-age, survivors, and disability insurance benefits 39542
under such act, shall remain a recipient for the purpose of 39543
receiving medical assistance through the medical assistance 39544
program established under section 5111.01 of the Revised Code. 39545

Sec. 5101.181. (A) As used in this section and section 39546
5101.182 of the Revised Code, "public assistance" includes, in 39547

addition to Ohio works first; prevention , <u>all of the following:</u>	39548
<u>(1) Prevention</u> retention, and contingency; medicaid	39549
<u>(2) Medicaid</u> ; and disability	39550
<u>(3) Disability financial</u> assistance, general ;	39551
<u>(4) Disability medical</u> assistance;	39552
<u>(5) General</u> assistance provided prior to July 17, 1995, under	39553
former Chapter 5113. of the Revised Code.	39554
(B) As part of the procedure for the determination of	39555
overpayment to a recipient of public assistance under Chapter	39556
5107., 5108., 5111., or 5115. of the Revised Code, the director of	39557
job and family services shall furnish quarterly the name and	39558
social security number of each individual who receives public	39559
assistance to the director of administrative services, the	39560
administrator of the bureau of workers' compensation, and each of	39561
the state's retirement boards. Within fourteen days after	39562
receiving the name and social security number of an individual who	39563
receives public assistance, the director of administrative	39564
services, administrator, or board shall inform the auditor of	39565
state as to whether such individual is receiving wages or	39566
benefits, the amount of any wages or benefits being received, the	39567
social security number, and the address of the individual. The	39568
director of administrative services, administrator, boards, and	39569
any agent or employee of those officials and boards shall comply	39570
with the rules of the director of job and family services	39571
restricting the disclosure of information regarding recipients of	39572
public assistance. Any person who violates this provision shall	39573
thereafter be disqualified from acting as an agent or employee or	39574
in any other capacity under appointment or employment of any state	39575
board, commission, or agency.	39576
(C) The auditor of state may enter into a reciprocal	39577
agreement with the director of job and family services or	39578

comparable officer of any other state for the exchange of names, 39579
current or most recent addresses, or social security numbers of 39580
persons receiving public assistance under Title IV-A or under 39581
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 39582
U.S.C. 301, as amended. 39583

(D)(1) The auditor of state shall retain, for not less than 39584
two years, at least one copy of all information received under 39585
this section and sections 145.27, 742.41, 3307.20, 3309.22, 39586
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 39587
shall review the information to determine whether overpayments 39588
were made to recipients of public assistance under Chapters 5107., 39589
5108., 5111., and 5115. of the Revised Code. The auditor of state 39590
shall initiate action leading to prosecution, where warranted, of 39591
recipients who received overpayments by forwarding the name of 39592
each recipient who received overpayment, together with other 39593
pertinent information, to the director of job and family services 39594
and the attorney general, to the district director of job and 39595
family services of the district through which public assistance 39596
was received, and to the county director of job and family 39597
services and county prosecutor of the county through which public 39598
assistance was received. 39599

(2) The auditor of state and the attorney general or their 39600
designees may examine any records, whether in computer or printed 39601
format, in the possession of the director of job and family 39602
services or any county director of job and family services. They 39603
shall provide safeguards which restrict access to such records to 39604
purposes directly connected with an audit or investigation, 39605
prosecution, or criminal or civil proceeding conducted in 39606
connection with the administration of the programs and shall 39607
comply with the rules of the director of job and family services 39608
restricting the disclosure of information regarding recipients of 39609
public assistance. Any person who violates this provision shall 39610

thereafter be disqualified from acting as an agent or employee or 39611
in any other capacity under appointment or employment of any state 39612
board, commission, or agency. 39613

(3) Costs incurred by the auditor of state in carrying out 39614
the auditor of state's duties under this division shall be borne 39615
by the auditor of state. 39616

Sec. 5101.214. The director of job and family services may 39617
enter into agreements with one-stop operators and one-stop 39618
partners for the purpose of implementing the requirements of 39619
section 121 of the "Workforce Investment Act of 1998," 112 Stat. 39620
936, 29 U.S.C. 2801. 39621

Sec. 5101.36. Any application for public assistance gives a 39622
right of subrogation to the department of job and family services 39623
for any workers' compensation benefits payable to a person who is 39624
subject to a support order, as defined in section 3119.01 of the 39625
Revised Code, on behalf of the applicant, to the extent of any 39626
public assistance payments made on the applicant's behalf. If the 39627
director of job and family services, in consultation with a child 39628
support enforcement agency and the administrator of the bureau of 39629
workers' compensation, determines that a person responsible for 39630
support payments to a recipient of public assistance is receiving 39631
workers' compensation, the director shall notify the administrator 39632
of the amount of the benefit to be paid to the department of job 39633
and family services. 39634

For purposes of this section, "public assistance" means 39635
medical assistance provided through the medical assistance program 39636
established under section 5111.01 of the Revised Code; Ohio works 39637
first provided under Chapter 5107. of the Revised Code; 39638
prevention, retention, and contingency benefits and services 39639
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 39640

financial assistance provided under Chapter 5115. of the Revised 39641
Code; or disability medical assistance provided under Chapter 39642
5115. of the Revised Code. 39643

Sec. 5101.58. As used in this section and section 5101.59 of 39644
the Revised Code, "public assistance" means aid provided under 39645
Chapter 5111. or 5115. of the Revised Code and participation in 39646
the Ohio works first program established under Chapter 5107. of 39647
the Revised Code. 39648

The acceptance of public assistance gives a right of recovery 39649
to the department of job and family services and a county 39650
department of job and family services against the liability of a 39651
third party for the cost of medical services and care arising out 39652
of injury, disease, or disability of the public assistance 39653
recipient or participant. When an action or claim is brought 39654
against a third party by a public assistance recipient or 39655
participant, the entire amount of any settlement or compromise of 39656
the action or claim, or any court award or judgment, is subject to 39657
the recovery right of the department of job and family services or 39658
county department of job and family services. Except in the case 39659
of a recipient or participant who receives medical services or 39660
care through a managed care organization, the department's or 39661
county department's claim shall not exceed the amount of medical 39662
expenses paid by the departments on behalf of the recipient or 39663
participant. In the case of a recipient or participant who 39664
receives medical services or care through a managed care 39665
organization, the amount of the department's or county 39666
department's claim shall be the amount the managed care 39667
organization pays for medical services or care rendered to the 39668
recipient or participant, even if that amount is more than the 39669
amount the departments pay to the managed care organization for 39670
the recipient's or participant's medical services or care. Any 39671
settlement, compromise, judgment, or award that excludes the cost 39672

of medical services or care shall not preclude the departments 39673
from enforcing their rights under this section. 39674

Prior to initiating any recovery action, the recipient or 39675
participant, or the recipient's or participant's representative, 39676
shall disclose the identity of any third party against whom the 39677
recipient or participant has or may have a right of recovery. 39678
Disclosure shall be made to the department of job and family 39679
services when medical expenses have been paid pursuant to Chapter 39680
5111. or 5115. of the Revised Code. Disclosure shall be made to 39681
both the department of job and family services and the appropriate 39682
county department of job and family services when medical expenses 39683
have been paid pursuant to Chapter 5115. of the Revised Code. No 39684
settlement, compromise, judgment, or award or any recovery in any 39685
action or claim by a recipient or participant where the 39686
departments have a right of recovery shall be made final without 39687
first giving the appropriate departments notice and a reasonable 39688
opportunity to perfect their rights of recovery. If the 39689
departments are not given appropriate notice, the recipient or 39690
participant is liable to reimburse the departments for the 39691
recovery received to the extent of medical payments made by the 39692
departments. The departments shall be permitted to enforce their 39693
recovery rights against the third party even though they accepted 39694
prior payments in discharge of their rights under this section if, 39695
at the time the departments received such payments, they were not 39696
aware that additional medical expenses had been incurred but had 39697
not yet been paid by the departments. The third party becomes 39698
liable to the department of job and family services or county 39699
department of job and family services as soon as the third party 39700
is notified in writing of the valid claims for recovery under this 39701
section. 39702

The right of recovery does not apply to that portion of any 39703
judgment, award, settlement, or compromise of a claim, to the 39704

extent of attorneys' fees, costs, or other expenses incurred by a 39705
recipient or participant in securing the judgment, award, 39706
settlement, or compromise, or to the extent of medical, surgical, 39707
and hospital expenses paid by such recipient or participant from 39708
the recipient's or participant's own resources. Attorney fees and 39709
costs or other expenses in securing any recovery shall not be 39710
assessed against any claims of the departments. 39711

To enforce their recovery rights, the departments may do any 39712
of the following: 39713

(A) Intervene or join in any action or proceeding brought by 39714
the recipient or participant or on the recipient's or 39715
participant's behalf against any third party who may be liable for 39716
the cost of medical services and care arising out of the 39717
recipient's or participant's injury, disease, or disability; 39718

(B) Institute and pursue legal proceedings against any third 39719
party who may be liable for the cost of medical services and care 39720
arising out of the recipient's or participant's injury, disease, 39721
or disability; 39722

(C) Initiate legal proceedings in conjunction with the 39723
injured, diseased, or disabled recipient or participant or the 39724
recipient's or participant's legal representative. 39725

Recovery rights created by this section may be enforced 39726
separately or jointly by the department of job and family services 39727
and the county department of job and family services. 39728

The right of recovery given to the department under this 39729
section does not include rights to support from any other person 39730
assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 39731
of the Revised Code, but includes payments made by a third party 39732
under contract with a person having a duty to support. 39733

The director of job and family services may adopt rules in 39734
accordance with Chapter 119. of the Revised Code the department 39735

considers necessary to implement this section. 39736

Sec. 5101.59. (A) The application for or acceptance of public 39737
assistance constitutes an automatic assignment of certain rights 39738
to the department of job and family services. This assignment 39739
includes the rights of the applicant, recipient, or participant 39740
and also the rights of any other member of the assistance group 39741
for whom the applicant, recipient, or participant can legally make 39742
an assignment. 39743

Pursuant to this section, the applicant, recipient, or 39744
participant assigns to the department any rights to medical 39745
support available to the applicant, recipient, or participant or 39746
for other members of the assistance group under an order of a 39747
court or administrative agency, and any rights to payments from 39748
any third party liable to pay for the cost of medical care and 39749
services arising out of injury, disease, or disability of the 39750
applicant, recipient, participant, or other members of the 39751
assistance group. 39752

Medicare benefits shall not be assigned pursuant to this 39753
section. Benefits assigned to the department by operation of this 39754
section are directly reimbursable to the department by liable 39755
third parties. 39756

(B) Refusal by the applicant, recipient, or participant to 39757
cooperate in obtaining medical support and payments for self or 39758
any other member of the assistance group renders the applicant, 39759
recipient, or participant ineligible for public assistance, unless 39760
cooperation is waived by the department. Eligibility shall 39761
continue for any individual who cannot legally assign the 39762
individual's own rights and who would have been eligible for 39763
public assistance but for the refusal to assign the individual's 39764
rights or to cooperate as required by this section by another 39765
person legally able to assign the individual's rights. 39766

If the applicant, recipient, or participant or any member of the assistance group becomes ineligible for public assistance, the department shall restore to the applicant, recipient, participant, or member of the assistance group any future rights to benefits assigned under this section.

The rights of assignment given to the department under this section do not include rights to support assigned under section 5107.20 or ~~5115.13~~ 5115.07 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules that specify what constitutes cooperating with efforts to obtain medical support and payments and when the cooperation requirement may be waived.

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.

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

(4) "Representative" means a person acting on behalf of an applicant for admission to a nursing facility. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant.

(5) "Third-party payment source" means a third-party payer as

defined in section 3901.38 of the Revised Code or medicaid. 39797

(B) Effective July 1, 1994, the department of job and family 39798
services may assess a person applying or intending to apply for 39799
admission to a nursing facility who is not an applicant for or 39800
recipient of medicaid to determine whether the person is in need 39801
of nursing facility services and whether an alternative source of 39802
long-term care is more appropriate for the person in meeting the 39803
person's physical, mental, and psychosocial needs than admission 39804
to the facility to which the person has applied. 39805

Each assessment shall be performed by the department or an 39806
agency designated by the department under section 5101.751 of the 39807
Revised Code and shall be based on information provided by the 39808
person or the person's representative. It shall consider the 39809
person's physical, mental, and psychosocial needs and the 39810
availability and effectiveness of informal support and care. The 39811
department or designated agency shall determine the person's 39812
physical, mental, and psychosocial needs by using, to the maximum 39813
extent appropriate, information from the resident assessment 39814
instrument specified in rules adopted by the department under 39815
division (A) of section 5111.231 of the Revised Code. The 39816
department or designated agency shall also use the criteria and 39817
procedures established in rules adopted by the department under 39818
division (I) of this section. Assessments may be performed only by 39819
persons certified by the department under section 5101.752 of the 39820
Revised Code. The department or designated agency shall make a 39821
recommendation on the basis of the assessment and, not later than 39822
the time the assessment is required to be performed under division 39823
(D) of this section, give the person assessed written notice of 39824
the recommendation, which shall explain the basis for the 39825
recommendation. If the department or designated agency determines 39826
pursuant to an assessment that an alternative source of long-term 39827
care is more appropriate for the person than admission to the 39828

facility to which the person has applied, the department or 39829
designated agency shall include in the notice possible sources of 39830
financial assistance for the alternative source of long-term care. 39831
If the department or designated agency has been informed that the 39832
person has a representative, it shall give the notice to the 39833
representative. 39834

(C) A person is not required to be assessed under division 39835
(B) of this section if any of the following apply: 39836

(1) The circumstances specified by rules adopted under 39837
division (I) of this section exist. 39838

(2) The person is to receive care in a nursing facility under 39839
a contract for continuing care as defined in section 173.13 of the 39840
Revised Code. 39841

(3) The person has a contractual right to admission to a 39842
nursing facility operated as part of a system of continuing care 39843
in conjunction with one or more facilities that provide a less 39844
intensive level of services, including a residential care facility 39845
licensed under Chapter 3721. of the Revised Code, an adult-care 39846
facility licensed under Chapter 3722. of the Revised Code, or an 39847
independent living arrangement; 39848

(4) The person is to receive continual care in a home for the 39849
aged exempt from taxation under section 5701.13 of the Revised 39850
Code; 39851

(5) The person is to receive care in the nursing facility for 39852
not more than fourteen days in order to provide temporary relief 39853
to the person's primary caregiver and the nursing facility 39854
notifies the department of the person's admittance not later than 39855
twenty-four hours after admitting the person; 39856

(6) The person is to be transferred from another nursing 39857
facility, unless the nursing facility from which or to which the 39858
person is to be transferred determines that the person's medical 39859

condition has changed substantially since the person's admission 39860
to the nursing facility from which the person is to be transferred 39861
or a review is required by a third-party payment source; 39862

(7) The person is to be readmitted to a nursing facility 39863
following a period of hospitalization, unless the hospital or 39864
nursing facility determines that the person's medical condition 39865
has changed substantially since the person's admission to the 39866
hospital, or a review is required by a third-party payment source; 39867

(8) The department or designated agency fails to complete an 39868
assessment within the time required by division (D) or (E) of this 39869
section or determines after a partial assessment that the person 39870
should be exempt from the assessment. 39871

(D) The department or designated agency shall perform a 39872
complete assessment, or, if circumstances provided by rules 39873
adopted under division (I) of this section exist, a partial 39874
assessment, as follows: 39875

(1) In the case of a hospitalized person applying or 39876
intending to apply to a nursing facility, not later than two 39877
working days after the person or the person's representative is 39878
notified that a bed is available in a nursing facility; 39879

(2) In the case of an emergency as determined in accordance 39880
with rules adopted under division (I) of this section, not later 39881
than one working day after the person or the person's 39882
representative is notified that a bed is available in a nursing 39883
facility; 39884

(3) In all other cases, not later than five calendar days 39885
after the person or the person's representative who submits the 39886
application is notified that a bed is available in a nursing 39887
facility. 39888

(E) If the department or designated agency conducts a partial 39889
assessment under division (D) of this section, it shall complete 39890

the rest of the assessment not later than one hundred eighty days 39891
after the date the person is admitted to the nursing facility 39892
unless the assessment entity determines the person should be 39893
exempt from the assessment. 39894

(F) A person assessed under this section or the person's 39895
representative may file a complaint with the department about the 39896
assessment process. The department shall work to resolve the 39897
complaint in accordance with rules adopted under division (I) of 39898
this section. 39899

(G) A person is not required to seek an alternative source of 39900
long-term care and may be admitted to or continue to reside in a 39901
nursing facility even though an alternative source of long-term 39902
care is available or the person is determined pursuant to an 39903
assessment under this section not to need nursing facility 39904
services. 39905

(H) No nursing facility ~~with~~ for which an operator has a 39906
provider agreement with the department under section 5111.22 of 39907
the Revised Code shall admit or retain any person, other than a 39908
person exempt from the assessment requirement as provided by 39909
division (C) of this section, as a resident unless the nursing 39910
facility has received evidence that a complete or partial 39911
assessment has been completed. 39912

(I) The director of job and family services shall adopt rules 39913
in accordance with Chapter 119. of the Revised Code to implement 39914
and administer this section. The rules shall include all of the 39915
following: 39916

(1) The information a person being assessed or the person's 39917
representative must provide to enable the department or designated 39918
agency to do the assessment; 39919

(2) Criteria to be used to determine whether a person is in 39920
need of nursing facility services; 39921

(3) Criteria to be used to determine whether an alternative source of long-term care is appropriate for the person being assessed;	39922 39923 39924
(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;	39925 39926
(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;	39927 39928 39929
(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;	39930 39931 39932
(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;	39933 39934 39935
(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;	39936 39937
(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.	39938 39939
(J) The director of job and family services may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code in either of the following circumstances:	39940 39941 39942 39943
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	39944 39945 39946
(2) The nursing facility admits, without evidence that a complete or partial assessment has been conducted, a person other than a person exempt from the assessment requirement as provided by division (C) of this section.	39947 39948 39949 39950
The director shall deposit all fines collected under this	39951

division into the residents protection fund established by section 39952
5111.62 of the Revised Code. 39953

Sec. 5101.80. (A) As used in this section and in section 39954
5101.801 of the Revised Code: 39955

(1) "County family services agency" has the same meaning as 39956
in section 307.981 of the Revised Code. 39957

(2) "State agency" has the same meaning as in section 9.82 of 39958
the Revised Code. 39959

(3) "Title IV-A program" means all of the following that are 39960
funded in part with funds provided under the temporary assistance 39961
for needy families block grant established by Title IV-A of the 39962
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 39963
amended: 39964

(a) The Ohio works first program established under Chapter 39965
5107. of the Revised Code; 39966

(b) The prevention, retention, and contingency program 39967
established under Chapter 5108. of the Revised Code; 39968

(c) A program established by the general assembly or an 39969
executive order issued by the governor that is administered or 39970
supervised by the department of job and family services pursuant 39971
to section 5101.801 of the Revised Code; 39972

(d) A component of a Title IV-A program identified under 39973
divisions (A)(3)(a) to (c) of this section that the Title IV-A 39974
state plan prepared under division (C)(1) of this section 39975
identifies as a component. 39976

(B) The department of job and family services shall act as 39977
the single state agency to administer and supervise the 39978
administration of Title IV-A programs. The Title IV-A state plan 39979
and amendments to the plan prepared under division (C) of this 39980
section are binding on county family services agencies and state 39981

agencies that administer a Title IV-A program. No county family 39982
services agency or state agency administering a Title IV-A program 39983
may establish, by rule or otherwise, a policy governing the Title 39984
IV-A program that is inconsistent with a Title IV-A program policy 39985
established, in rule or otherwise, by the director of job and 39986
family services. 39987

(C) The department of job and family services shall do all of 39988
the following: 39989

(1) Prepare and submit to the United States secretary of 39990
health and human services a Title IV-A state plan for Title IV-A 39991
programs; 39992

(2) Prepare and submit to the United States secretary of 39993
health and human services amendments to the Title IV-A state plan 39994
that the department determines necessary, including amendments 39995
necessary to implement Title IV-A programs identified in division 39996
(A)(3)(c) and (d) of this section; 39997

(3) Prescribe forms for applications, certificates, reports, 39998
records, and accounts of county family services agencies and state 39999
agencies administering a Title IV-A program, and other matters 40000
related to Title IV-A programs; 40001

(4) Make such reports, in such form and containing such 40002
information as the department may find necessary to assure the 40003
correctness and verification of such reports, regarding Title IV-A 40004
programs; 40005

(5) Require reports and information from each county family 40006
services agency and state agency administering a Title IV-A 40007
program as may be necessary or advisable regarding the Title IV-A 40008
program; 40009

(6) Afford a fair hearing in accordance with section 5101.35 40010
of the Revised Code to any applicant for, or participant or former 40011
participant of, a Title IV-A program aggrieved by a decision 40012

regarding the program; 40013

(7) Administer and expend, pursuant to Chapters 5104., 5107., 40014
and 5108. of the Revised Code and section 5101.801 of the Revised 40015
Code, any sums appropriated by the general assembly for the 40016
purpose of those chapters and section and all sums paid to the 40017
state by the secretary of the treasury of the United States as 40018
authorized by Title IV-A of the "Social Security Act," 110 Stat. 40019
2113 (1996), 42 U.S.C. 601, as amended; 40020

(8) Conduct investigations and audits as are necessary 40021
regarding Title IV-A programs; 40022

(9) Enter into reciprocal agreements with other states 40023
relative to the provision of Ohio works first and prevention, 40024
retention, and contingency to residents and nonresidents; 40025

(10) Contract with a private entity to conduct an independent 40026
on-going evaluation of the Ohio works first program and the 40027
prevention, retention, and contingency program. The contract must 40028
require the private entity to do all of the following: 40029

(a) Examine issues of process, practice, impact, and 40030
outcomes; 40031

(b) Study former participants of Ohio works first who have 40032
not participated in Ohio works first for at least one year to 40033
determine whether they are employed, the type of employment in 40034
which they are engaged, the amount of compensation they are 40035
receiving, whether their employer provides health insurance, 40036
whether and how often they have received benefits or services 40037
under the prevention, retention, and contingency program, and 40038
whether they are successfully self sufficient; 40039

(c) Provide the department with reports at times the 40040
department specifies. 40041

(11) Not later than January 1, 2001, and the first day of 40042

each January and July thereafter, prepare a report containing 40043
information on the following: 40044

(a) Individuals exhausting the time limits for participation 40045
in Ohio works first set forth in section 5107.18 of the Revised 40046
Code. 40047

(b) Individuals who have been exempted from the time limits 40048
set forth in section 5107.18 of the Revised Code and the reasons 40049
for the exemption. 40050

(12) Not later than January 1, 2001, and on a quarterly basis 40051
thereafter until December 1, 2003, prepare, to the extent the 40052
necessary data is available to the department, a report based on 40053
information determined under section 5107.80 of the Revised Code 40054
that states how many former Ohio works first participants entered 40055
the workforce during the most recent previous quarter for which 40056
the information is known and includes information regarding the 40057
earnings of those former participants. The report shall include a 40058
county-by-county breakdown and shall not contain the names or 40059
social security numbers of former participants. 40060

(13) To the extent authorized by section 5101.801 of the 40061
Revised Code, enter into interagency agreements with state 40062
agencies for the administration of Title IV-A programs identified 40063
under division (A)(3)(c) and (d) of this section. 40064

(D) The department shall provide copies of the reports it 40065
receives under division (C)(10) of this section and prepares under 40066
divisions (C)(11) and (12) of this section to the governor, the 40067
president and minority leader of the senate, and the speaker and 40068
minority leader of the house of representatives. The department 40069
shall provide copies of the reports to any private or government 40070
entity on request. 40071

(E) An authorized representative of the department or a 40072
county family services agency or state agency administering a 40073

Title IV-A program shall have access to all records and 40074
information bearing thereon for the purposes of investigations 40075
conducted pursuant to this section. 40076

Sec. 5101.83. (A) As used in this section: 40077

(1) "Assistance group" has the same meaning as in ~~sections~~ 40078
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 40079
also means a group provided benefits and services under the 40080
prevention, retention, and contingency program ~~because the members~~ 40081
~~of the group share a common need for benefits and services.~~ 40082

(2) "Fraudulent assistance" means assistance and service, 40083
including cash assistance, provided under the Ohio works first 40084
program established under Chapter 5107., or benefits and services 40085
provided under the prevention, retention, and contingency program 40086
established under Chapter 5108. of the Revised Code, to or on 40087
behalf of an assistance group that is provided as a result of 40088
fraud by a member of the assistance group, including an 40089
intentional violation of the program's requirements. "Fraudulent 40090
assistance" does not include assistance or services to or on 40091
behalf of an assistance group that is provided as a result of an 40092
error that is the fault of a county department of job and family 40093
services or the state department of job and family services. 40094

(B) If a county director of job and family services 40095
determines that an assistance group has received fraudulent 40096
assistance, the assistance group is ineligible to participate in 40097
the Ohio works first program or the prevention, retention, and 40098
contingency program until a member of the assistance group repays 40099
the cost of the fraudulent assistance. If a member repays the cost 40100
of the fraudulent assistance and the assistance group otherwise 40101
meets the eligibility requirements for the Ohio works first 40102
program or the prevention, retention, and contingency program, the 40103
assistance group shall not be denied the opportunity to 40104

participate in the program. 40105

This section does not limit the ability of a county 40106
department of job and family services to recover erroneous 40107
payments under section 5107.76 of the Revised Code. 40108

The state department of job and family services shall adopt 40109
rules in accordance with Chapter 119. of the Revised Code to 40110
implement this section. 40111

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of 40112
each July and January, the department of job and family services 40113
shall complete a report on the characteristics of the individuals 40114
who participate in or receive services through the programs 40115
operated by the department and the outcomes of the individuals' 40116
participation in or receipt of services through the programs. The 40117
~~report~~ reports shall be for the six-month periods ending on the 40118
last days of June and December and shall include information on 40119
the following: 40120

(a) Work activities, developmental activities, and 40121
alternative work activities established under sections 5107.40 to 40122
5107.69 of the Revised Code; 40123

(b) Programs of publicly funded child day-care, as defined in 40124
section 5104.01 of the Revised Code; 40125

(c) Child support enforcement programs; 40126

(d) Births to recipients of the medical assistance program 40127
established under Chapter 5111. of the Revised Code. 40128

(2) Not later than the ~~first~~ last day of each July, the 40129
department shall complete a progress report on the partnership 40130
agreements between the director of job and family services and 40131
boards of county commissioners under section 5101.21 of the 40132
Revised Code. The report shall be for the twelve-month period 40133
ending on the last day of June and shall include a review of 40134

whether the county family services agencies and workforce 40135
development agencies satisfied performance standards included in 40136
the agreements and whether the department provided assistance, 40137
services, and technical support specified in the agreements to aid 40138
the agencies in meeting the performance standards. 40139

(3) The department shall submit the reports required under 40140
divisions (A)(1) and (2) of this section to the speaker and 40141
minority leader of the house of representatives, the president and 40142
minority leader of the senate, the legislative budget officer, the 40143
director of budget and management, and each board of county 40144
commissioners. The department shall provide copies of each report 40145
to any person or government entity on request. 40146

In designing the format for each report, the department shall 40147
consult with individuals, organizations, and government entities 40148
interested in the programs operated by the department, so that the 40149
reports are designed to enable the general assembly and the public 40150
to evaluate the effectiveness of the programs and identify any 40151
needs that the programs are not meeting. 40152

(B) Whenever the federal government requires that the 40153
department submit a report on a program that is operated by the 40154
department or is otherwise under the department's jurisdiction, 40155
the department shall prepare and submit the report in accordance 40156
with the federal requirements applicable to that report. To the 40157
extent possible, the department may coordinate the preparation and 40158
submission of a particular report with any other report, plan, or 40159
other document required to be submitted to the federal government, 40160
as well as with any report required to be submitted to the general 40161
assembly. The reports required by the Personal Responsibility and 40162
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 40163
submitted as an annual summary. 40164

Sec. 5103.031. (A) Except as provided in section 5103.033 of 40165

the Revised Code, the department of job and family services may 40166
not issue a certificate under section 5103.03 of the Revised Code 40167
to a foster home unless the foster caregiver successfully 40168
completes the following amount of preplacement training through 40169
~~the Ohio child welfare training program~~ or a preplacement training 40170
program operated under section 5103.034 or 5153.60 of the Revised 40171
Code: 40172

(1) If the foster home is a family foster home, at least 40173
twelve hours; 40174

(2) If the foster home is a specialized foster home, at least 40175
thirty-six hours. 40176

(B) No child may be placed in a family foster home unless the 40177
foster caregiver completes at least twelve additional hours of 40178
preplacement training through ~~the Ohio child welfare training~~ 40179
~~program~~ or a preplacement training program operated under section 40180
5103.034 or 5153.60 of the Revised Code. 40181

Sec. 5103.033. The department of job and family services may 40182
issue or renew a certificate under section 5103.03 of the Revised 40183
Code to a foster home for the care of a child who is in the 40184
custody of a public children services agency or private child 40185
placing agency pursuant to an agreement entered into under section 40186
5103.15 of the Revised Code regarding a child who was less than 40187
six months of age on the date the agreement was executed if the 40188
foster caregiver successfully completes the following amount of 40189
training: 40190

(A) For an initial certificate, at least twelve hours of 40191
preplacement training through ~~the Ohio child welfare training~~ 40192
~~program~~ or a preplacement training program operated under section 40193
5103.034 or 5153.60 of the Revised Code; 40194

(B) For renewal of a certificate, at least twelve hours each 40195

year of continuing training in accordance with the foster 40196
caregiver's needs assessment and continuing training plan 40197
developed and implemented under section 5103.035 of the Revised 40198
Code. 40199

Sec. 5103.034. ~~(A) A public children services agency, private 40200
child placing agency, or private noncustodial agency operating a 40201
preplacement training program or continuing training program 40202
approved by the department of job and family services under 40203
section 5103.038 of the Revised Code or the Ohio child welfare 40204
training program operating a preplacement training program or 40205
continuing training program pursuant to section 5153.60 of the 40206
Revised Code shall make the program available to foster 40207
caregivers. The agency or program shall make the programs 40208
available without regard to the type of recommending agency from 40209
which a foster caregiver seeks a recommendation ~~and without charge 40210
to the foster caregiver.~~ 40211~~

(B) A private child placing agency or private noncustodial 40212
agency operating a preplacement training program or continuing 40213
training program approved by the department of job and family 40214
services under section 5103.038 of the Revised Code may condition 40215
the enrollment of a foster caregiver in a program on either or 40216
both of the following: 40217

(1) Availability of space in the training program; 40218

(2) If applicable, payment of an instruction or registration 40219
fee, if any, by the foster caregiver's recommending agency. 40220

(C) The Ohio child welfare training program operating a 40221
preplacement training program or continuing training program 40222
pursuant to section 5153.60 of the Revised Code may condition the 40223
enrollment in a preplacement training program or continuing 40224
training program of a foster caregiver whose recommending agency 40225
is a private child placing agency or private noncustodial agency 40226

<u>on either or both of the following:</u>	40227
<u>(1) Availability of space in the training program;</u>	40228
<u>(2) Assignment to the program by the foster caregiver's</u> <u>recommending agency of the allowance payable under section</u> <u>5103.0313 of the Revised Code.</u>	40229 40230 40231
<u>(D) A private child placing agency or private noncustodial</u> <u>agency may contract with an individual or a public or private</u> <u>entity to administer a preplacement training program or continuing</u> <u>training program operated by the agency and approved by the</u> <u>department of job and family services under section 5103.038 of</u> <u>the Revised Code.</u>	40232 40233 40234 40235 40236 40237
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 program or pursuant to a preplacement training program or continuing training program operated under section 5103.034 <u>or</u> <u>5153.60</u> of the Revised Code regardless of whether the <u>program is</u> <u>operated by the recommending agency operated the preplacement</u> <u>training program or continuing training program.</u> The agency may require that the foster caregiver successfully complete additional training as a condition of the agency recommending that the department of job and family services certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code.	40238 40239 40240 40241 40242 40243 40244 40245 40246 40247 40248 40249 40250 40251
Sec. 5103.037. The department of job and family services, in consultation with the departments of youth services, mental health, education, mental retardation and developmental disabilities, and alcohol and drug addiction services, shall develop a model design of a preplacement training program for	40252 40253 40254 40255 40256

foster caregivers seeking an initial certificate under section 40257
5103.03 of the Revised Code and a model design of a continuing 40258
training program for foster caregivers seeking renewal of a 40259
certificate under that section. The model design of a preplacement 40260
training program shall comply with section 5103.039 of the Revised 40261
Code. The model design of a continuing training program shall 40262
comply with section 5103.0310 of the Revised Code. The department 40263
of job and family services shall make the model designs available 40264
to ~~public children services agencies~~ the Ohio child welfare
training program, private child placing agencies, and private 40265
noncustodial agencies. 40266
40267

Sec. 5103.038. (A) Every other year by a date specified in 40268
rules adopted under section 5103.0316 of the Revised Code, each 40269
~~public children services agency,~~ private child placing agency, and 40270
private noncustodial agency that seeks to operate a preplacement 40271
training program or continuing training program under section 40272
5103.034 of the Revised Code shall submit to the department of job 40273
and family services a proposal outlining the program. The proposal 40274
may be the same as, a modification of, or different from, a model 40275
design developed under section 5103.037 of the Revised Code. ~~The~~ 40276
~~proposal shall include a budget for the program regarding the cost~~ 40277
~~associated with trainers, obtaining sites at which the training is~~ 40278
~~provided, and the administration of the training. The budget shall~~ 40279
~~be consistent with rules adopted under section 5103.0316 of the~~ 40280
~~Revised Code governing the department of job and family services'~~ 40281
~~reimbursement of public children services agencies, private child~~ 40282
~~placing agencies, and private noncustodial agencies under section~~ 40283
~~5103.0313 of the Revised Code.~~ 40284

(B) Not later than thirty days after receiving a proposal 40285
under division (A) of this section, the department shall either 40286
approve or disapprove the proposed program. The department shall 40287
approve a proposed preplacement training program if it complies 40288

with section 5103.039 or 5103.0310 of the Revised Code, as 40289
appropriate, and, in the case of a proposal submitted by an agency 40290
operating a preplacement training program at the time the proposal 40291
is submitted, the department is satisfied with the agency's 40292
operation of the program. The department shall approve a proposed 40293
continuing training program if it complies with section 5103.0310 40294
or 5103.0311 of the Revised Code, as appropriate, and, in the case 40295
of a proposal submitted by an agency operating a continuing 40296
training program at the time the proposal is submitted, the 40297
department is satisfied with the agency's operation of the 40298
program. ~~The department shall disapprove a proposed program if the~~ 40299
~~program's budget is not consistent with rules adopted under~~ 40300
~~section 5103.0316 of the Revised Code governing the department's~~ 40301
~~reimbursement of public children services agencies, private child~~ 40302
~~placing agencies, and private noncustodial agencies under section~~ 40303
~~5103.0313 of the Revised Code.~~ If the department disapproves a 40304
proposal, it shall provide the reason for disapproval to the 40305
agency that submitted the proposal and advise the agency of how to 40306
revise the proposal so that the department can approve it. 40307

(C) The department's approval under division (B) of this 40308
section of a proposed preplacement training program or continuing 40309
training program is valid only for two years following the year 40310
the proposal for the program is submitted to the department under 40311
division (A) of this section. 40312

Sec. 5103.0312. A public children services agency, private 40313
child placing agency, or private noncustodial agency acting as a 40314
recommending agency for foster caregivers who hold certificates 40315
issued under section 5103.03 of the Revised Code shall pay those 40316
foster caregivers ~~who have had at least one foster child placed in~~ 40317
~~their home~~ a stipend to reimburse them for attending ~~training~~ 40318
~~courses provided by the Ohio child welfare training program or~~ 40319
~~pursuant to~~ a preplacement training program or continuing training 40320

program operated under section 5103.034 or 5153.60 of the Revised Code. The payment shall be based on a stipend rate established by the department of job and family services. The stipend rate shall be the same regardless of the type of recommending agency from which a foster caregiver seeks a recommendation. The department shall, pursuant to rules adopted under section 5103.0316 of the Revised Code, reimburse the recommending agency for stipend payments it makes in accordance with this section.

Sec. 5103.0313. The department of job and family services shall ~~reimburse the following~~ compensate a private child placing agency or private noncustodial agency for the cost of ~~providing procuring or operating~~ preplacement and continuing training ~~to foster caregivers.~~

~~(A) The Ohio child welfare training program;~~

~~(B) A public children services agency, private child placing 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.

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 noneustodial agency.

Sec. 5103.0314. The department of job and family services

shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 40351
~~of~~ any training the agency requires a foster caregiver to undergo 40352
as a condition of the agency recommending the department certify 40353
or recertify the foster caregiver's foster home under section 40354
5103.03 of the Revised Code if the training is in addition to the 40355
minimum training required by section 5103.031 or 5103.032 of the 40356
Revised Code. 40357

Sec. 5103.0315. The department of job and family services 40358
shall seek federal financial participation for the cost of making 40359
payments under section 5103.0312 of the Revised Code and 40360
~~reimbursements~~ allowances under section 5103.0313 of the Revised 40361
Code. The department shall notify the governor, president of the 40362
senate, minority leader of the senate, speaker of the house of 40363
representatives, and minority leader of the house of 40364
representatives of any proposed federal legislation that endangers 40365
the federal financial participation. 40366

Sec. 5103.0316. ~~Not later than ninety days after January 1,~~ 40367
~~2001, the~~ The department of job and family services shall adopt 40368
rules in accordance with Chapter 119. of the Revised Code as 40369
necessary for the efficient administration of sections 5103.031 to 40370
5103.0316 of the Revised Code. The rules shall provide for all of 40371
the following: 40372

(A) For the purpose of section 5103.038 of the Revised Code, 40373
the date by which a ~~public children services agency,~~ private child 40374
placing agency~~,~~ or private noncustodial agency that seeks to 40375
operate a preplacement training program or continuing training 40376
program under section 5103.034 of the Revised Code must submit to 40377
the department a proposal outlining the program; 40378

(B) Requirements governing the department's ~~reimbursement~~ 40379
compensation of ~~the Ohio child welfare training program and public~~ 40380

~~children services agencies~~, private child placing agencies, and 40381
private noncustodial agencies under sections 5103.0312 and 40382
5103.0313 of the Revised Code; 40383

(C) Any other matter the department considers appropriate. 40384

Sec. 5103.154. (A) Information concerning all children who 40385
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 40386
in the permanent custody of an institution or association 40387
certified by the department of job and family services under 40388
section 5103.03 of the Revised Code shall be listed with the 40389
department within ninety days after permanent custody is 40390
effective, unless the child has been placed for adoption or unless 40391
an application for placement was initiated under section 5103.16 40392
of the Revised Code. 40393

(B) All persons who wish to adopt children, and are approved 40394
by an agency so empowered under this chapter, shall be listed with 40395
the department within ninety days of approval, unless a person 40396
requests in writing that that person's name not be so listed, or 40397
has had a child placed in that person's home in preparation for 40398
adoption, or has filed a petition for adoption. 40399

(C) All persons who wish to adopt a child with special needs 40400
as defined in rules adopted under section 5153.163 of the Revised 40401
Code, and who are approved by an agency so empowered under this 40402
chapter, shall be listed separately by the department within 40403
ninety days of approval, unless a person requests in writing that 40404
that person's name not be so listed, or has had a child with 40405
special needs placed in that person's home in preparation for 40406
adoption, or has filed a petition for adoption. 40407

(D) The department shall forward information on such children 40408
and listed persons at least quarterly, to all public children 40409
services agencies and all certified agencies. 40410

(E) The appropriate listed names shall be removed when a 40411
child is placed in an adoptive home or when a person withdraws an 40412
application for adoption. 40413

(F) No later than six months after the end of each fiscal 40414
year, the department shall compile a report of its conclusions 40415
regarding the effectiveness of its actions pursuant to this 40416
section and of the restrictions on placement under division ~~(E)~~(G) 40417
of section 5153.163 of the Revised Code in increasing adoptive 40418
placements of children with special needs, together with its 40419
recommendations, and shall submit a copy of the report to the 40420
chairpersons of the principal committees of the senate and the 40421
house of representatives who consider welfare legislation. 40422

Sec. 5103.155. As used in this section, "children with 40423
special needs" has the same meaning as in rules adopted under 40424
section 5153.163 of the Revised Code. 40425

If the department of job and family services determines that 40426
money in the putative father registry fund created under section 40427
2101.16 of the Revised Code is more than is needed to perform its 40428
duties related to the putative father registry, the department may 40429
use surplus moneys in the fund to promote adoption of children 40430
with special needs. 40431

Sec. 5104.01. As used in this chapter: 40432

(A) "Administrator" means the person responsible for the 40433
daily operation of a center or type A home. The administrator and 40434
the owner may be the same person. 40435

(B) "Approved child day camp" means a child day camp approved 40436
pursuant to section 5104.22 of the Revised Code. 40437

(C) "Authorized provider" means a person authorized by a 40438
county director of job and family services to operate a certified 40439

type B family day-care home. 40440

(D) "Border state child day-care provider" means a child 40441
day-care provider that is located in a state bordering Ohio and 40442
that is licensed, certified, or otherwise approved by that state 40443
to provide child day-care. 40444

(E) "Caretaker parent" means the father or mother of a child 40445
whose presence in the home is needed as the caretaker of the 40446
child, a person who has legal custody of a child and whose 40447
presence in the home is needed as the caretaker of the child, a 40448
guardian of a child whose presence in the home is needed as the 40449
caretaker of the child, and any other person who stands in loco 40450
parentis with respect to the child and whose presence in the home 40451
is needed as the caretaker of the child. 40452

(F) "Certified type B family day-care home" and "certified 40453
type B home" mean a type B family day-care home that is certified 40454
by the director of the county department of job and family 40455
services pursuant to section 5104.11 of the Revised Code to 40456
receive public funds for providing child day-care pursuant to this 40457
chapter and any rules adopted under it. 40458

(G) "Chartered nonpublic school" means a school that meets 40459
standards for nonpublic schools prescribed by the state board of 40460
education for nonpublic schools pursuant to section 3301.07 of the 40461
Revised Code. 40462

(H) "Child" includes an infant, toddler, preschool child, or 40463
school child. 40464

(I) "Child care block grant act" means the "Child Care and 40465
Development Block Grant Act of 1990," established in section 5082 40466
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 40467
1388-236 (1990), 42 U.S.C. 9858, as amended. 40468

(J) "Child day camp" means a program in which only school 40469
children attend or participate, that operates for no more than 40470

seven hours per day, that operates only during one or more public 40471
school district's regular vacation periods or for no more than 40472
fifteen weeks during the summer, and that operates outdoor 40473
activities for each child who attends or participates in the 40474
program for a minimum of fifty per cent of each day that children 40475
attend or participate in the program, except for any day when 40476
hazardous weather conditions prevent the program from operating 40477
outdoor activities for a minimum of fifty per cent of that day. 40478
For purposes of this division, the maximum seven hours of 40479
operation time does not include transportation time from a child's 40480
home to a child day camp and from a child day camp to a child's 40481
home. 40482

(K) "Child day-care" means administering to the needs of 40483
infants, toddlers, preschool children, and school children outside 40484
of school hours by persons other than their parents or guardians, 40485
custodians, or relatives by blood, marriage, or adoption for any 40486
part of the twenty-four-hour day in a place or residence other 40487
than a child's own home. 40488

(L) "Child day-care center" and "center" mean any place in 40489
which child day-care or publicly funded child day-care is provided 40490
for thirteen or more children at one time or any place that is not 40491
the permanent residence of the licensee or administrator in which 40492
child day-care or publicly funded child day-care is provided for 40493
seven to twelve children at one time. In counting children for the 40494
purposes of this division, any children under six years of age who 40495
are related to a licensee, administrator, or employee and who are 40496
on the premises of the center shall be counted. "Child day-care 40497
center" and "center" do not include any of the following: 40498

(1) A place located in and operated by a hospital, as defined 40499
in section 3727.01 of the Revised Code, in which the needs of 40500
children are administered to, if all the children whose needs are 40501
being administered to are monitored under the on-site supervision 40502

of a physician licensed under Chapter 4731. of the Revised Code or 40503
a registered nurse licensed under Chapter 4723. of the Revised 40504
Code, and the services are provided only for children who, in the 40505
opinion of the child's parent, guardian, or custodian, are 40506
exhibiting symptoms of a communicable disease or other illness or 40507
are injured; 40508

(2) A child day camp; 40509

(3) A place that provides child day-care, but not publicly 40510
funded child day-care, if all of the following apply: 40511

(a) An organized religious body provides the child day-care; 40512

(b) A parent, custodian, or guardian of at least one child 40513
receiving child day-care is on the premises and readily accessible 40514
at all times; 40515

(c) The child day-care is not provided for more than thirty 40516
days a year; 40517

(d) The child day-care is provided only for preschool and 40518
school children. 40519

(M) "Child day-care resource and referral service 40520
organization" means a community-based nonprofit organization that 40521
provides child day-care resource and referral services but not 40522
child day-care. 40523

(N) "Child day-care resource and referral services" means all 40524
of the following services: 40525

(1) Maintenance of a uniform data base of all child day-care 40526
providers in the community that are in compliance with this 40527
chapter, including current occupancy and vacancy data; 40528

(2) Provision of individualized consumer education to 40529
families seeking child day-care; 40530

(3) Provision of timely referrals of available child day-care 40531
providers to families seeking child day-care; 40532

(4) Recruitment of child day-care providers;	40533
(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;	40534 40535 40536 40537
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	40538 40539
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	40540 40541 40542
(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;	40543 40544 40545
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	40546 40547
(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;	40548 40549 40550 40551 40552
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.	40553 40554 40555 40556
(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.	40557 40558 40559 40560 40561
(P) "Drop-in child day-care center," "drop-in center,"	40562

"drop-in type A family day-care home," and "drop-in type A home" 40563
mean a center or type A home that provides child day-care or 40564
publicly funded child day-care for children on a temporary, 40565
irregular basis. 40566

(Q) "Employee" means a person who either: 40567

(1) Receives compensation for duties performed in a child 40568
day-care center or type A family day-care home; 40569

(2) Is assigned specific working hours or duties in a child 40570
day-care center or type A family day-care home. 40571

(R) "Employer" means a person, firm, institution, 40572
organization, or agency that operates a child day-care center or 40573
type A family day-care home subject to licensure under this 40574
chapter. 40575

(S) "Federal poverty line" means the official poverty 40576
guideline as revised annually in accordance with section 673(2) of 40577
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 40578
U.S.C. 9902, as amended, for a family size equal to the size of 40579
the family of the person whose income is being determined. 40580

(T) "Head start program" means a comprehensive child 40581
development program that receives funds distributed under the 40582
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 40583
amended, or under ~~section~~ sections 3301.31 to 3301.37 of the 40584
Revised Code. 40585

(U) "Income" means gross income, as defined in section 40586
5107.10 of the Revised Code, less any amounts required by federal 40587
statutes or regulations to be disregarded. 40588

(V) "Indicator checklist" means an inspection tool, used in 40589
conjunction with an instrument-based program monitoring 40590
information system, that contains selected licensing requirements 40591
that are statistically reliable indicators or predictors of a 40592

child day-care center or type A family day-care home's compliance 40593
with licensing requirements. 40594

(W) "Infant" means a child who is less than eighteen months 40595
of age. 40596

(X) "In-home aide" means a person certified by a county 40597
director of job and family services pursuant to section 5104.12 of 40598
the Revised Code to provide publicly funded child day-care to a 40599
child in a child's own home pursuant to this chapter and any rules 40600
adopted under it. 40601

(Y) "Instrument-based program monitoring information system" 40602
means a method to assess compliance with licensing requirements 40603
for child day-care centers and type A family day-care homes in 40604
which each licensing requirement is assigned a weight indicative 40605
of the relative importance of the requirement to the health, 40606
growth, and safety of the children that is used to develop an 40607
indicator checklist. 40608

(Z) "License capacity" means the maximum number in each age 40609
category of children who may be cared for in a child day-care 40610
center or type A family day-care home at one time as determined by 40611
the director of job and family services considering building 40612
occupancy limits established by the department of commerce, number 40613
of available child-care staff members, amount of available indoor 40614
floor space and outdoor play space, and amount of available play 40615
equipment, materials, and supplies. 40616

(AA) "Licensed preschool program" or "licensed school child 40617
program" means a preschool program or school child program, as 40618
defined in section 3301.52 of the Revised Code, that is licensed 40619
by the department of education pursuant to sections 3301.52 to 40620
3301.59 of the Revised Code. 40621

(BB) "Licensee" means the owner of a child day-care center or 40622
type A family day-care home that is licensed pursuant to this 40623

chapter and who is responsible for ensuring its compliance with 40624
this chapter and rules adopted pursuant to this chapter. 40625

(CC) "Operate a child day camp" means to operate, establish, 40626
manage, conduct, or maintain a child day camp. 40627

(DD) "Owner" includes a person, as defined in section 1.59 of 40628
the Revised Code, or government entity. 40629

(EE) "Parent cooperative child day-care center," "parent 40630
cooperative center," "parent cooperative type A family day-care 40631
home," and "parent cooperative type A home" mean a corporation or 40632
association organized for providing educational services to the 40633
children of members of the corporation or association, without 40634
gain to the corporation or association as an entity, in which the 40635
services of the corporation or association are provided only to 40636
children of the members of the corporation or association, 40637
ownership and control of the corporation or association rests 40638
solely with the members of the corporation or association, and at 40639
least one parent-member of the corporation or association is on 40640
the premises of the center or type A home during its hours of 40641
operation. 40642

(FF) "Part-time child day-care center," "part-time center," 40643
"part-time type A family day-care home," and "part-time type A 40644
home" mean a center or type A home that provides child day-care or 40645
publicly funded child day-care for no more than four hours a day 40646
for any child. 40647

(GG) "Place of worship" means a building where activities of 40648
an organized religious group are conducted and includes the 40649
grounds and any other buildings on the grounds used for such 40650
activities. 40651

(HH) "Preschool child" means a child who is three years old 40652
or older but is not a school child. 40653

(II) "Protective day-care" means publicly funded child 40654

day-care for the direct care and protection of a child to whom 40655
either of the following applies: 40656

(1) A case plan prepared and maintained for the child 40657
pursuant to section 2151.412 of the Revised Code indicates a need 40658
for protective day-care and the child resides with a parent, 40659
stepparent, guardian, or another person who stands in loco 40660
parentis as defined in rules adopted under section 5104.38 of the 40661
Revised Code; 40662

(2) The child and the child's caretaker either temporarily 40663
reside in a facility providing emergency shelter for homeless 40664
families or are determined by the county department of job and 40665
family services to be homeless, and are otherwise ineligible for 40666
publicly funded child day-care. 40667

(JJ) "Publicly funded child day-care" means administering to 40668
the needs of infants, toddlers, preschool children, and school 40669
children under age thirteen during any part of the 40670
twenty-four-hour day by persons other than their caretaker parents 40671
for remuneration wholly or in part with federal or state funds, 40672
including funds available under the child care block grant act 40673
funds, Title IV-A, and Title XX, distributed by the department of 40674
job and family services. 40675

(KK) "Religious activities" means any of the following: 40676
worship or other religious services; religious instruction; Sunday 40677
school classes or other religious classes conducted during or 40678
prior to worship or other religious services; youth or adult 40679
fellowship activities; choir or other musical group practices or 40680
programs; meals; festivals; or meetings conducted by an organized 40681
religious group. 40682

(LL) "School child" means a child who is enrolled in or is 40683
eligible to be enrolled in a grade of kindergarten or above but is 40684
less than fifteen years old. 40685

(MM) "School child day-care center," "school child center," 40686
"school child type A family day-care home," and "school child type 40687
A family home" mean a center or type A home that provides child 40688
day-care for school children only and that does either or both of 40689
the following: 40690

(1) Operates only during that part of the day that 40691
immediately precedes or follows the public school day of the 40692
school district in which the center or type A home is located; 40693

(2) Operates only when the public schools in the school 40694
district in which the center or type A home is located are not 40695
open for instruction with pupils in attendance. 40696

(NN) "Special needs day-care" means publicly funded child 40697
day-care that is provided for a child who is physically or 40698
developmentally handicapped, mentally retarded, or mentally ill. 40699

(OO) "State median income" means the state median income 40700
calculated by the department of development pursuant to division 40701
(A)(1)(g) of section 5709.61 of the Revised Code. 40702

(PP) "Title IV-A" means Title IV-A of the "Social Security 40703
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 40704

(OO) "Title XX" means Title XX of the "Social Security Act," 40705
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 40706

(RR) "Toddler" means a child who is at least eighteen months 40707
of age but less than three years of age. 40708

~~(OO)~~(SS) "Type A family day-care home" and "type A home" mean 40709
a permanent residence of the administrator in which child day-care 40710
or publicly funded child day-care is provided for seven to twelve 40711
children at one time or a permanent residence of the administrator 40712
in which child day-care is provided for four to twelve children at 40713
one time if four or more children at one time are under two years 40714
of age. In counting children for the purposes of this division, 40715

any children under six years of age who are related to a licensee, 40716
administrator, or employee and who are on the premises of the type 40717
A home shall be counted. "Type A family day-care home" does not 40718
include a residence in which the needs of children are 40719
administered to, if all of the children whose needs are being 40720
administered to are siblings of the same immediate family and the 40721
residence is the home of the siblings. "Type A family day-care 40722
home" and "type A home" do not include any child day camp. 40723

~~(RR)~~(TT) "Type B family day-care home" and "type B home" mean 40724
a permanent residence of the provider in which child day-care is 40725
provided for one to six children at one time and in which no more 40726
than three children are under two years of age at one time. In 40727
counting children for the purposes of this division, any children 40728
under six years of age who are related to the provider and who are 40729
on the premises of the type B home shall be counted. "Type B 40730
family day-care home" does not include a residence in which the 40731
needs of children are administered to, if all of the children 40732
whose needs are being administered to are siblings of the same 40733
immediate family and the residence is the home of the siblings. 40734
"Type B family day-care home" and "type B home" do not include any 40735
child day camp. 40736

Sec. 5104.011. (A) The director of job and family services 40737
shall adopt rules pursuant to Chapter 119. of the Revised Code 40738
governing the operation of child day-care centers, including, but 40739
not limited to, parent cooperative centers, part-time centers, 40740
drop-in centers, and school child centers, which rules shall 40741
reflect the various forms of child day-care and the needs of 40742
children receiving child day-care or publicly funded child 40743
day-care and, ~~no later than January 1, 1992,~~ shall include 40744
specific rules for school child day-care centers that are 40745
developed in consultation with the department of education. The 40746
rules shall not require an existing school facility that is in 40747

compliance with applicable building codes to undergo an additional 40748
building code inspection or to have structural modifications. The 40749
rules shall include the following: 40750

(1) Submission of a site plan and descriptive plan of 40751
operation to demonstrate how the center proposes to meet the 40752
requirements of this chapter and rules adopted pursuant to this 40753
chapter for the initial license application; 40754

(2) Standards for ensuring that the physical surroundings of 40755
the center are safe and sanitary including, but not limited to, 40756
the physical environment, the physical plant, and the equipment of 40757
the center; 40758

(3) Standards for the supervision, care, and discipline of 40759
children receiving child day-care or publicly funded child 40760
day-care in the center; 40761

(4) Standards for a program of activities, and for play 40762
equipment, materials, and supplies, to enhance the development of 40763
each child; however, any educational curricula, philosophies, and 40764
methodologies that are developmentally appropriate and that 40765
enhance the social, emotional, intellectual, and physical 40766
development of each child shall be permissible. As used in this 40767
division, "program" does not include instruction in religious or 40768
moral doctrines, beliefs, or values that is conducted at child 40769
day-care centers owned and operated by churches and does include 40770
methods of disciplining children at child day-care centers. 40771

(5) Admissions policies and procedures, health care policies 40772
and procedures, including, but not limited to, procedures for the 40773
isolation of children with communicable diseases, first aid and 40774
emergency procedures, procedures for discipline and supervision of 40775
children, standards for the provision of nutritious meals and 40776
snacks, and procedures for screening children and employees, 40777
including, but not limited to, any necessary physical examinations 40778

and immunizations;	40779
(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;	40780 40781 40782 40783
(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;	40784 40785 40786
(8) Procedures for record keeping, organization, and administration;	40787 40788
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	40789 40790 40791
(10) Inspection procedures;	40792
(11) Procedures and standards for setting initial and renewal license application fees;	40793 40794
(12) Procedures for receiving, recording, and responding to complaints about centers;	40795 40796
(13) Procedures for enforcing section 5104.04 of the Revised Code;	40797 40798
(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;	40799 40800 40801 40802 40803
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent	40804 40805 40806 40807 40808

with divisions (B)(6) and (C)(1) of this section. 40809

(16) Procedures to be used by licensees for checking the 40810
references of potential employees of centers and procedures to be 40811
used by the director for checking the references of applicants for 40812
licenses to operate centers; 40813

(17) Standards providing for the special needs of children 40814
who are handicapped or who require treatment for health conditions 40815
while the child is receiving child day-care or publicly funded 40816
child day-care in the center; 40817

(18) Any other procedures and standards necessary to carry 40818
out this chapter. 40819

(B)(1) The child day-care center shall have, for each child 40820
for whom the center is licensed, at least thirty-five square feet 40821
of usable indoor floor space wall-to-wall regularly available for 40822
the child day-care operation exclusive of any parts of the 40823
structure in which the care of children is prohibited by law or by 40824
rules adopted by the board of building standards. The minimum of 40825
thirty-five square feet of usable indoor floor space shall not 40826
include hallways, kitchens, storage areas, or any other areas that 40827
are not available for the care of children, as determined by the 40828
director, in meeting the space requirement of this division, and 40829
bathrooms shall be counted in determining square footage only if 40830
they are used exclusively by children enrolled in the center, 40831
except that the exclusion of hallways, kitchens, storage areas, 40832
bathrooms not used exclusively by children enrolled in the center, 40833
and any other areas not available for the care of children from 40834
the minimum of thirty-five square feet of usable indoor floor 40835
space shall not apply to: 40836

(a) Centers licensed prior to or on September 1, 1986, that 40837
continue under licensure after that date; 40838

(b) Centers licensed prior to or on September 1, 1986, that 40839

are issued a new license after that date solely due to a change of ownership of the center. 40840
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(2) The child day-care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met: 40842
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(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section. 40850
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(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation. 40855
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(c) The children are closely supervised during play and while traveling to and from the area. 40859
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The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to 40861
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that section that the park, playground, or similar area, as well 40871
as access to and from the area, is unsafe for the children. 40872

(3) The child day-care center shall have at least two 40873
responsible adults available on the premises at all times when 40874
seven or more children are in the center. The center shall 40875
organize the children in the center in small groups, shall provide 40876
child-care staff to give continuity of care and supervision to the 40877
children on a day-by-day basis, and shall ensure that no child is 40878
left alone or unsupervised. Except as otherwise provided in 40879
division (E) of this section, the maximum number of children per 40880
child-care staff member and maximum group size, by age category of 40881
children, are as follows: 40882

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			40887
(i) Less than twelve			40888
months old	5:1, or		40889
	12:2 if two		40890
	child-care		40891
	staff members		40892
	are in the room	12	40893
(ii) At least twelve			40894
months old, but			40895
less than eighteen			40896
months old	6:1	12	40897
(b) Toddlers:			40898
(i) At least eighteen			40899
months old, but			40900
less than thirty			40901
months old	7:1	14	40902
(ii) At least thirty months			40903

old, but less than			40904
three years old	8:1	16	40905
(c) Preschool children:			40906
(i) Three years old	12:1	24	40907
(ii) Four years old and five years old who are not school children			40908
(d) School children:	14:1	28	40909
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old			40910
(ii) Eleven through fourteen years old	18:1	36	40911
	20:1	40	40912
Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.			40913
(4)(a) The child day-care center administrator shall show the director both of the following:			40914
(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;			40915
(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood			40916

education, or at least two years of experience in supervising and 40936
giving daily care to children attending an organized group 40937
program. 40938

(b) In addition to the requirements of division (B)(4)(a) of 40939
this section, any administrator employed or designated on or after 40940
September 1, 1986, shall show evidence of, and any administrator 40941
employed or designated prior to September 1, 1986, shall show 40942
evidence within six years after such date of, at least one of the 40943
following: 40944

(i) Two years of experience working as a child-care staff 40945
member in a center and at least four courses in child development 40946
or early childhood education from an accredited college, 40947
university, or technical college, except that a person who has two 40948
years of experience working as a child-care staff member in a 40949
particular center and who has been promoted to or designated as 40950
administrator of that center shall have one year from the time the 40951
person was promoted to or designated as administrator to complete 40952
the required four courses; 40953

(ii) Two years of training, including at least four courses 40954
in child development or early childhood education from an 40955
accredited college, university, or technical college; 40956

(iii) A child development associate credential issued by the 40957
national child development associate credentialing commission; 40958

(iv) An associate or higher degree in child development or 40959
early childhood education from an accredited college, technical 40960
college, or university, or a license designated for teaching in an 40961
associate teaching position in a preschool setting issued by the 40962
state board of education. 40963

(5) All child-care staff members of a child day-care center 40964
shall be at least eighteen years of age, and shall furnish the 40965
director evidence of at least high school graduation or 40966

certification of high school equivalency by the state board of 40967
education or the appropriate agency of another state or evidence 40968
of completion of a training program approved by the department of 40969
job and family services or state board of education, except as 40970
follows: 40971

(a) A child-care staff member may be less than eighteen years 40972
of age if the staff member is either of the following: 40973

(i) A graduate of a two-year vocational child-care training 40974
program approved by the state board of education; 40975

(ii) A student enrolled in the second year of a vocational 40976
child-care training program approved by the state board of 40977
education which leads to high school graduation, provided that the 40978
student performs the student's duties in the child day-care center 40979
under the continuous supervision of an experienced child-care 40980
staff member, receives periodic supervision from the vocational 40981
child-care training program teacher-coordinator in the student's 40982
high school, and meets all other requirements of this chapter and 40983
rules adopted pursuant to this chapter. 40984

(b) A child-care staff member shall be exempt from the 40985
educational requirements of this division if the staff member: 40986

(i) Prior to January 1, 1972, was employed or designated by a 40987
child day-care center and has been continuously employed since 40988
either by the same child day-care center employer or at the same 40989
child day-care center; or 40990

(ii) Is a student enrolled in the second year of a vocational 40991
child-care training program approved by the state board of 40992
education which leads to high school graduation, provided that the 40993
student performs the student's duties in the child day-care center 40994
under the continuous supervision of an experienced child-care 40995
staff member, receives periodic supervision from the vocational 40996
child-care training program teacher-coordinator in the student's 40997

high school, and meets all other requirements of this chapter and 40998
rules adopted pursuant to this chapter. 40999

(6) Every child day-care staff member of a child day-care 41000
center annually shall complete fifteen hours of inservice training 41001
in child development or early childhood education, child abuse 41002
recognition and prevention, first aid, and in prevention, 41003
recognition, and management of communicable diseases, until a 41004
total of forty-five hours of training has been completed, unless 41005
the staff member furnishes one of the following to the director: 41006

(a) Evidence of an associate or higher degree in child 41007
development or early childhood education from an accredited 41008
college, university, or technical college; 41009

(b) A license designated for teaching in an associate 41010
teaching position in a preschool setting issued by the state board 41011
of education; 41012

(c) Evidence of a child development associate credential; 41013

(d) Evidence of a preprimary credential from the American 41014
Montessori society or the association Montessori international. 41015
For the purposes of division (B)(6) of this section, "hour" means 41016
sixty minutes. 41017

(7) The administrator of each child day-care center shall 41018
prepare at least once annually and for each group of children at 41019
the center a roster of names and telephone numbers of parents, 41020
custodians, or guardians of each group of children attending the 41021
center and upon request shall furnish the roster for each group to 41022
the parents, custodians, or guardians of the children in that 41023
group. The administrator may prepare a roster of names and 41024
telephone numbers of all parents, custodians, or guardians of 41025
children attending the center and upon request shall furnish the 41026
roster to the parents, custodians, or guardians of the children 41027
who attend the center. The administrator shall not include in any 41028

roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to any person other than a parent, custodian, or guardian of a child who attends the center.

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid and in prevention, recognition, and management of communicable diseases which is approved by the state department of health and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except as otherwise provided in division (B)(7) of this section and except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the

purposes of contacting their children, evaluating the care 41061
provided by the center, evaluating the premises of the center, or 41062
for other purposes approved by the director. A parent of a child 41063
enrolled in a child day-care center who is not the child's 41064
residential parent shall be permitted unlimited access to the 41065
center during its hours of operation for those purposes under the 41066
same terms and conditions under which the residential parent of 41067
that child is permitted access to the center for those purposes. 41068
However, the access of the parent who is not the residential 41069
parent is subject to any agreement between the parents and, to the 41070
extent described in division (C)(3)(b) of this section, is subject 41071
to any terms and conditions limiting the right of access of the 41072
parent who is not the residential parent, as described in division 41073
(I) of section 3109.051 of the Revised Code, that are contained in 41074
a parenting time order or decree issued under that section, 41075
section 3109.12 of the Revised Code, or any other provision of the 41076
Revised Code. 41077

(b) If a parent who is the residential parent of a child has 41078
presented the administrator or the administrator's designee with a 41079
copy of a parenting time order that limits the terms and 41080
conditions under which the parent who is not the residential 41081
parent is to have access to the center, as described in division 41082
(I) of section 3109.051 of the Revised Code, the parent who is not 41083
the residential parent shall be provided access to the center only 41084
to the extent authorized in the order. If the residential parent 41085
has presented such an order, the parent who is not the residential 41086
parent shall be permitted access to the center only in accordance 41087
with the most recent order that has been presented to the 41088
administrator or the administrator's designee by the residential 41089
parent or the parent who is not the residential parent. 41090

(c) Upon entering the premises pursuant to division (C)(3)(a) 41091
or (b) of this section, the parent who is the residential parent 41092

and legal custodian, the parent who is not the residential parent, 41093
or the custodian or guardian shall notify the administrator or the 41094
administrator's designee of the parent's, custodian's, or 41095
guardian's presence. 41096

(D) The director of job and family services, in addition to 41097
the rules adopted under division (A) of this section, shall adopt 41098
rules establishing minimum requirements for child day-care 41099
centers. The rules shall include, but not be limited to, the 41100
requirements set forth in divisions (B) and (C) of this section. 41101
Except as provided in section 5104.07 of the Revised Code, the 41102
rules shall not change the square footage requirements of division 41103
(B)(1) or (2) of this section; the maximum number of children per 41104
child-care staff member and maximum group size requirements of 41105
division (B)(3) of this section; the educational and experience 41106
requirements of division (B)(4) of this section; the age, 41107
educational, and experience requirements of division (B)(5) of 41108
this section; the number of inservice training hours required 41109
under division (B)(6) of this section; or the requirement for at 41110
least annual preparation of a roster for each group of children of 41111
names and telephone numbers of parents, custodians, or guardians 41112
of each group of children attending the center that must be 41113
furnished upon request to any parent, custodian, or guardian of 41114
any child in that group required under division (B)(7) of this 41115
section; however, the rules shall provide procedures for 41116
determining compliance with those requirements. 41117

(E)(1) When age groups are combined, the maximum number of 41118
children per child-care staff member shall be determined by the 41119
age of the youngest child in the group, except that when no more 41120
than one child thirty months of age or older receives services in 41121
a group in which all the other children are in the next older age 41122
group, the maximum number of children per child-care staff member 41123
and maximum group size requirements of the older age group 41124

established under division (B)(3) of this section shall apply. 41125

(2) The maximum number of toddlers or preschool children per 41126
child-care staff member in a room where children are napping shall 41127
be twice the maximum number of children per child-care staff 41128
member established under division (B)(3) of this section if all 41129
the following criteria are met: 41130

(a) At least one child-care staff member is present in the 41131
room. 41132

(b) Sufficient child-care staff members are on the child 41133
day-care center premises to meet the maximum number of children 41134
per child-care staff member requirements established under 41135
division (B)(3) of this section. 41136

(c) Naptime preparations are complete and all napping 41137
children are resting or sleeping on cots. 41138

(d) The maximum number established under division (E)(2) of 41139
this section is in effect for no more than one and one-half hours 41140
during a twenty-four-hour day. 41141

(F) The director of job and family services shall adopt rules 41142
pursuant to Chapter 119. of the Revised Code governing the 41143
operation of type A family day-care homes, including, but not 41144
limited to, parent cooperative type A homes, part-time type A 41145
homes, drop-in type A homes, and school child type A homes, which 41146
shall reflect the various forms of child day-care and the needs of 41147
children receiving child day-care. The rules shall include the 41148
following: 41149

(1) Submission of a site plan and descriptive plan of 41150
operation to demonstrate how the type A home proposes to meet the 41151
requirements of this chapter and rules adopted pursuant to this 41152
chapter for the initial license application; 41153

(2) Standards for ensuring that the physical surroundings of 41154

the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the

Revised Code;	41186
(10) Inspection procedures;	41187
(11) Procedures and standards for setting initial and renewal license application fees;	41188 41189
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	41190 41191
(13) Procedures for enforcing section 5104.04 of the Revised Code;	41192 41193
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;	41194 41195 41196 41197 41198 41199
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	41200 41201 41202 41203
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	41204 41205 41206 41207
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type A home;	41208 41209 41210 41211
(18) Standards for the maximum number of children per child-care staff member;	41212 41213
(19) Requirements for the amount of usable indoor floor space for each child;	41214 41215

(20) Requirements for safe outdoor play space;	41216
(21) Qualifications and training requirements for administrators and for child-care staff members;	41217 41218
(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;	41219 41220 41221
(23) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;	41222 41223
(24) Any other procedures and standards necessary to carry out this chapter.	41224 41225
(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.	41226 41227 41228
(1) The rules shall include procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:	41229 41230 41231 41232
(a) Persons who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;	41233 41234 41235 41236 41237
(b) Persons who provide child day-care for eligible children all of whom are the children of the same caretaker parent.	41238 41239
The rules shall require, and shall include procedures for the director to ensure, that type B family day-care homes that receive a limited certification provide child day-care to children in a safe and sanitary manner. With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath	41240 41241 41242 41243 41244 41245

attesting that the provider meets the standards for limited 41246
certification. Such provisional limited certifications shall 41247
remain in effect for no more than sixty calendar days and shall 41248
entitle the provider to offer publicly funded child day-care 41249
during the provisional period. Except as otherwise provided in 41250
division (G)(1) of this section, prior to the expiration of the 41251
provisional limited certificate, a county department of job and 41252
family services shall inspect the home and shall grant limited 41253
certification to the provider if the provider meets the 41254
requirements of this division. Limited certificates remain valid 41255
for two years unless earlier revoked. Except as otherwise provided 41256
in division (G)(1) of this section, providers operating under 41257
limited certification shall be inspected annually. 41258

If a provider is a person described in division (G)(1)(a) of 41259
this section or a person described in division (G)(1)(b) of this 41260
section who is a friend of the caretaker parent, the provider and 41261
the caretaker parent may verify in writing to the county 41262
department of job and family services that minimum health and 41263
safety requirements are being met in the home. If such 41264
verification is provided, the county shall waive any inspection 41265
and any criminal records check required by this chapter and grant 41266
limited certification to the provider. 41267

(2) The rules shall provide for safeguarding the health, 41268
safety, and welfare of children receiving child day-care or 41269
publicly funded child day-care in a certified type B home and 41270
shall include the following: 41271

(a) Standards for ensuring that the type B home and the 41272
physical surroundings of the type B home are safe and sanitary, 41273
including, but not limited to, physical environment, physical 41274
plant, and equipment; 41275

(b) Standards for the supervision, care, and discipline of 41276
children receiving child day-care or publicly funded child 41277

day-care in the home;	41278
(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	41279 41280 41281 41282 41283 41284
(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;	41285 41286 41287 41288 41289 41290
(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	41291 41292 41293 41294
(f) Standards for the safe transport of children when under the care of authorized providers;	41295 41296
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	41297 41298
(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;	41299 41300 41301 41302
(i) Procedures for record keeping and evaluation;	41303
(j) Procedures for receiving, recording, and responding to complaints;	41304 41305
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions	41306 41307

while the child is receiving child day-care or publicly funded	41308
child day-care in the type B home;	41309
(1) Requirements for the amount of usable indoor floor space	41310
for each child;	41311
(m) Requirements for safe outdoor play space;	41312
(n) Qualification and training requirements for authorized	41313
providers;	41314
(o) Procedures for granting a parent who is the residential	41315
parent and legal custodian, or a custodian or guardian access to	41316
the type B home during its hours of operation;	41317
(p) Any other procedures and standards necessary to carry out	41318
this chapter.	41319
(H) The director shall adopt rules pursuant to Chapter 119.	41320
of the Revised Code governing the certification of in-home aides.	41321
The rules shall include procedures, standards, and other necessary	41322
provisions for granting limited certification to in-home aides who	41323
provide child day-care for eligible children who are	41324
great-grandchildren, grandchildren, nieces, nephews, or siblings	41325
of the in-home aide or for eligible children whose caretaker	41326
parent is a grandchild, child, niece, nephew, or sibling of the	41327
in-home aide. The rules shall require, and shall include	41328
procedures for the director to ensure, that in-home aides that	41329
receive a limited certification provide child day-care to children	41330
in a safe and sanitary manner. The rules shall provide for	41331
safeguarding the health, safety, and welfare of children receiving	41332
publicly funded child day-care in their own home and shall include	41333
the following:	41334
(1) Standards for ensuring that the child's home and the	41335
physical surroundings of the child's home are safe and sanitary,	41336
including, but not limited to, physical environment, physical	41337
plant, and equipment;	41338

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;	41339 41340 41341
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	41342 41343 41344 41345 41346 41347
(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;	41348 41349 41350 41351 41352 41353
(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;	41354 41355 41356 41357
(6) Standards for the safe transport of children when under the care of in-home aides;	41358 41359
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	41360 41361
(8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;	41362 41363
(9) Procedures for record keeping and evaluation;	41364
(10) Procedures for receiving, recording, and responding to complaints;	41365 41366
(11) Qualifications and training requirements for in-home aides;	41367 41368

(12) Standards providing for the special needs of children 41369
who are handicapped or who receive treatment for health conditions 41370
while the child is receiving publicly funded child day-care in the 41371
child's own home; 41372

(13) Any other procedures and standards necessary to carry 41373
out this chapter. 41374

(I) To the extent that any rules adopted for the purposes of 41375
this section require a health care professional to perform a 41376
physical examination, the rules shall include as a health care 41377
professional a physician assistant, a clinical nurse specialist, a 41378
certified nurse practitioner, or a certified nurse-midwife. 41379

(J)(1) The director of job and family services shall ~~send~~ 41380
~~copies~~ do all of the following: 41381

(a) Send to each licensee notice of proposed rules to each 41382
licensee and each county director of job and family services and 41383
shall give governing the licensure of child day-care centers and 41384
type A homes; 41385

(b) Give public notice of hearings regarding the rules to 41386
each licensee ~~and each county director of job and family services~~ 41387
at least thirty days prior to the date of the public hearing, in 41388
accordance with section 119.03 of the Revised Code; ~~i~~ 41389

(c) Prior to the effective date of a rule, the director of 41390
job and family services shall provide copies, in either paper or 41391
electronic form, a copy of the adopted rule to each licensee and 41392
each county director of job and family services. 41393

(2) The director shall do all of the following: 41394

(a) Send to each county director of job and family services a 41395
notice of proposed rules governing the certification of type B 41396
family homes and in-home aides that includes an internet web site 41397
address where the proposed rules can be viewed; 41398

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance; 41399
41400

(c) Provide to each county director of job and family services an electronic copy of each adopted rule prior to the rule's effective date. 41401
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(3) The county director of job and family services shall send 41404
copies of proposed rules to each authorized provider and in-home 41405
aide and shall give public notice of hearings regarding the rules 41406
to each authorized provider and in-home aide at least thirty days 41407
prior to the date of the public hearing, in accordance with 41408
section 119.03 of the Revised Code. Prior to the effective date of 41409
a rule, the county director of job and family services shall 41410
provide copies of the adopted rule to each authorized provider and 41411
in-home aide. 41412

(4) Additional copies of proposed and adopted rules shall be 41413
made available by the director of job and family services to the 41414
public on request at no charge. 41415

(K) The director of job and family services shall review all 41416
rules adopted pursuant to this chapter at least once every seven 41417
years. 41418

(L) Notwithstanding any provision of the Revised Code, the 41419
director of job and family services shall not regulate in any way 41420
under this chapter or rules adopted pursuant to this chapter, 41421
instruction in religious or moral doctrines, beliefs, or values. 41422

Sec. 5104.02. (A) The director of job and family services is 41423
responsible for the licensing of child day-care centers and type A 41424
family day-care homes, and for the enforcement of this chapter and 41425
of rules promulgated pursuant to this chapter. No person, firm, 41426
organization, institution, or agency shall operate, establish, 41427
manage, conduct, or maintain a child day-care center or type A 41428

family day-care home without a license issued under section 41429
5104.03 of the Revised Code. The current license shall be posted 41430
in a conspicuous place in the center or type A home that is 41431
accessible to parents, custodians, or guardians and employees of 41432
the center or type A home at all times when the center or type A 41433
home is in operation. 41434

(B) A person, firm, institution, organization, or agency 41435
operating any of the following programs is exempt from the 41436
requirements of this chapter: 41437

(1) A program of child day-care that operates for two or less 41438
consecutive weeks; 41439

(2) Child day-care in places of worship during religious 41440
activities during which children are cared for while at least one 41441
parent, guardian, or custodian of each child is participating in 41442
such activities and is readily available; 41443

(3) Religious activities which do not provide child day-care; 41444

(4) Supervised training, instruction, or activities of 41445
children in specific areas, including, but not limited to: art; 41446
drama; dance; music; gymnastics, swimming, or another athletic 41447
skill or sport; computers; or an educational subject conducted on 41448
an organized or periodic basis no more than one day a week and for 41449
no more than six hours duration; 41450

(5) Programs in which the director determines that at least 41451
one parent, custodian, or guardian of each child is on the 41452
premises of the facility offering child day-care and is readily 41453
accessible at all times, except that child day-care provided on 41454
the premises at which a parent, custodian, or guardian is employed 41455
more than two and one-half hours a day shall be licensed in 41456
accordance with division (A) of this section; 41457

(6)(a) Programs that provide child day-care funded and 41458
regulated or operated and regulated by state departments other 41459

than the department of job and family services or the state board 41460
of education when the director of job and family services has 41461
determined that the rules governing the program are equivalent to 41462
or exceed the rules promulgated pursuant to this chapter. 41463

Notwithstanding any exemption from regulation under this 41464
chapter, each state department shall submit to the director of job 41465
and family services a copy of the rules that govern programs that 41466
provide child day-care and are regulated or operated and regulated 41467
by the department. Annually, each state department shall submit to 41468
the director a report for each such program it regulates or 41469
operates and regulates that includes the following information: 41470

(i) The site location of the program; 41471

(ii) The maximum number of infants, toddlers, preschool 41472
children, or school children served by the program at one time; 41473

(iii) The number of adults providing child day-care for the 41474
number of infants, toddlers, preschool children, or school 41475
children; 41476

(iv) Any changes in the rules made subsequent to the time 41477
when the rules were initially submitted to the director. 41478

The director shall maintain a record of the child day-care 41479
information submitted by other state departments and shall provide 41480
this information upon request to the general assembly or the 41481
public. 41482

(b) Child day-care programs conducted by boards of education 41483
or by chartered nonpublic schools that are conducted in school 41484
buildings and that provide child day-care to school children only 41485
shall be exempt from meeting or exceeding rules promulgated 41486
pursuant to this chapter. 41487

(7) Any preschool program or school child program, except a 41488
head start program, that is subject to licensure by the department 41489

of education under sections 3301.52 to 3301.59 of the Revised Code. 41490
41491

(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: 41492
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41494
41495

(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; 41496
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41498
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(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; 41500
41501
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(c) The program is conducted in a school building; 41503

(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. 41504
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(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply: 41507
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(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. 41510
41511
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(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. 41513
41514
41515

(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. 41516
41517
41518
41519

(d) The community-based center operating the program is 41520
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 41521
and (c)(3). 41522

Sec. 5104.04. (A) The department of job and family services 41523
shall establish procedures to be followed in investigating, 41524
inspecting, and licensing child day-care centers and type A family 41525
day-care homes. 41526

(B)(1) The department shall, at least twice during every 41527
twelve-month period of operation of a center or type A home, 41528
inspect the center or type A home. The department shall inspect a 41529
part-time center or part-time type A home at least once during 41530
every twelve-month period of operation. The department shall 41531
provide a written inspection report to the licensee within a 41532
reasonable time after each inspection. The licensee shall display 41533
all written reports of inspections conducted during the current 41534
licensing period in a conspicuous place in the center or type A 41535
home. 41536

At least one inspection shall be unannounced and all 41537
inspections may be unannounced. No person, firm, organization, 41538
institution, or agency shall interfere with the inspection of a 41539
center or type A home by any state or local official engaged in 41540
performing duties required of the state or local official by 41541
Chapter 5104. of the Revised Code or rules adopted pursuant to 41542
Chapter 5104. of the Revised Code, including inspecting the center 41543
or type A home, reviewing records, or interviewing licensees, 41544
employees, children, or parents. 41545

Upon receipt of any complaint that a center or type A home is 41546
out of compliance with the requirements of Chapter 5104. of the 41547
Revised Code or rules adopted pursuant to Chapter 5104. of the 41548
Revised Code, the department shall investigate and may inspect a 41549
center or type A home. 41550

(2) If the department implements an instrument-based program 41551
monitoring information system, it may use an indicator checklist 41552
to comply with division (B)(1) of this section. 41553

(3) The department shall, at least once during every 41554
twelve-month period of operation of a center or type A home, 41555
collect information concerning the amounts charged by the center 41556
or home for providing child day-care services for use in 41557
establishing rates of reimbursement and payment pursuant to 41558
section 5104.30 of the Revised Code. 41559

(C) In the event a licensed center or type A home is 41560
determined to be out of compliance with the requirements of 41561
Chapter 5104. of the Revised Code or rules adopted pursuant to 41562
Chapter 5104. of the Revised Code, the department shall notify the 41563
licensee of the center or type A home in writing regarding the 41564
nature of the violation, what must be done to correct the 41565
violation, and by what date the correction must be made. If the 41566
correction is not made by the date established by the department, 41567
the department may commence action under Chapter 119. of the 41568
Revised Code to revoke the license. 41569

(D) The department may deny or revoke a license, or refuse to 41570
renew a license of a center or type A home, if the applicant 41571
knowingly makes a false statement on the application, does not 41572
comply with the requirements of Chapter 5104. or rules adopted 41573
pursuant to Chapter 5104. of the Revised Code, or has pleaded 41574
guilty to or been convicted of an offense described in section 41575
5104.09 of the Revised Code. 41576

(E) If the department finds, after notice and hearing 41577
pursuant to Chapter 119. of the Revised Code, that any person, 41578
firm, organization, institution, or agency licensed under section 41579
5104.03 of the Revised Code is in violation of any provision of 41580
Chapter 5104. of the Revised Code or rules adopted pursuant to 41581

Chapter 5104. of the Revised Code, the department may issue an 41582
order of revocation to the center or type A home revoking the 41583
license previously issued by the department. Upon the issuance of 41584
any order of revocation, the person whose license is revoked may 41585
appeal in accordance with section 119.12 of the Revised Code. 41586

(F) The surrender of a center or type A home license to the 41587
department or the withdrawal of an application for licensure by 41588
the owner or administrator of the center or type A home shall not 41589
prohibit the department from instituting any of the actions set 41590
forth in this section. 41591

(G) Whenever the department receives a complaint, is advised, 41592
or otherwise has any reason to believe that a center or type A 41593
home is providing child day-care without a license issued or 41594
renewed pursuant to section 5104.03 and is not exempt from 41595
licensing pursuant to section 5104.02 of the Revised Code, the 41596
department shall investigate the center or type A home and may 41597
inspect the areas children have access to or areas necessary for 41598
the care of children in the center or type A home during suspected 41599
hours of operation to determine whether the center or type A home 41600
is subject to the requirements of Chapter 5104. or rules adopted 41601
pursuant to Chapter 5104. of the Revised Code. 41602

(H) The department, upon determining that the center or type 41603
A home is operating without a license, shall notify the attorney 41604
general, the prosecuting attorney of the county in which the 41605
center or type A home is located, or the city attorney, village 41606
solicitor, or other chief legal officer of the municipal 41607
corporation in which the center or type A home is located, that 41608
the center or type A home is operating without a license. Upon 41609
receipt of the notification, the attorney general, prosecuting 41610
attorney, city attorney, village solicitor, or other chief legal 41611
officer of a municipal corporation shall file a complaint in the 41612
court of common pleas of the county in which the center or type A 41613

home is located requesting that the court grant an order enjoining 41614
the owner from operating the center or type A home. The court 41615
shall grant such injunctive relief upon a showing that the 41616
respondent named in the complaint is operating a center or type A 41617
home and is doing so without a license. 41618

(I) The department shall prepare an annual report on 41619
inspections conducted under this section. The report shall include 41620
the number of inspections conducted, the number and types of 41621
violations found, and the steps taken to address the violations. 41622
The department shall file the report with the governor, the 41623
president and minority leader of the senate, and the speaker and 41624
minority leader of the house of representatives on or before the 41625
first day of January of each year, beginning in 1999. 41626

Sec. 5104.30. (A) The department of job and family services 41627
is hereby designated as the state agency responsible for 41628
administration and coordination of federal and state funding for 41629
publicly funded child day-care in this state. Publicly funded 41630
child day-care shall be provided to the following: 41631

(1) Recipients of transitional child day-care as provided 41632
under section 5104.34 of the Revised Code; 41633

(2) Participants in the Ohio works first program established 41634
under Chapter 5107. of the Revised Code; 41635

(3) Individuals who would be participating in the Ohio works 41636
first program if not for a sanction under section 5107.16 of the 41637
Revised Code and who continue to participate in a work activity, 41638
developmental activity, or alternative work activity pursuant to 41639
an assignment under section 5107.42 of the Revised Code; 41640

(4) A family receiving publicly funded child day-care on 41641
October 1, 1997, until the family's income reaches one hundred 41642
fifty per cent of the federal poverty line; 41643

(5) Subject to available funds, other individuals determined 41644
eligible in accordance with rules adopted under section 5104.38 of 41645
the Revised Code. 41646

The department shall apply to the United States department of 41647
health and human services for authority to operate a coordinated 41648
program for publicly funded child day-care, if the director of job 41649
and family services determines that the application is necessary. 41650
For purposes of this section, the department of job and family 41651
services may enter into agreements with other state agencies that 41652
are involved in regulation or funding of child day-care. The 41653
department shall consider the special needs of migrant workers 41654
when it administers and coordinates publicly funded child day-care 41655
and shall develop appropriate procedures for accommodating the 41656
needs of migrant workers for publicly funded child day-care. 41657

(B) The department of job and family services shall 41658
distribute state and federal funds for publicly funded child 41659
day-care, including appropriations of state funds for publicly 41660
funded child day-care and appropriations of federal funds ~~for~~ 41661
~~publicly funded child day care~~ available under ~~Title XX of the~~ 41662
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 41663
~~amended, and the child care block grant act, Title IV-A, and Title~~ 41664
XX. The department may use any state funds appropriated for 41665
publicly funded child day-care as the state share required to 41666
match any federal funds appropriated for publicly funded child 41667
day-care. 41668

(C) ~~The department may~~ In the use of federal funds available 41669
under the child care block grant act, all of the following apply: 41670

(1) The department may use the federal funds to hire staff to 41671
prepare any rules required under this chapter and to administer 41672
and coordinate federal and state funding for publicly funded child 41673
day-care. 41674

(2) Not more than five per cent of the aggregate amount of 41675
~~those~~ the federal funds received for a fiscal year may be expended 41676
for administrative costs. ~~The~~ 41677

(3) The department shall allocate and use at least four per 41678
cent of the federal funds for the following: 41679

~~(1)~~(a) Activities designed to provide comprehensive consumer 41680
education to parents and the public; 41681

~~(2)~~(b) Activities that increase parental choice; 41682

~~(3)~~(c) Activities, including child day-care resource and 41683
referral services, designed to improve the quality, and increase 41684
the supply, of child day-care. 41685

~~(D)~~ (4) The department may use the federal funds to provide 41686
payments to head start programs in advance of their provision of 41687
publicly funded day-care. A head start program that receives 41688
advance payments shall provide an annual report to the department 41689
regarding the program's attendance, including the number of 41690
children who received publicly funded day-care. If the department 41691
determines from the report that the advance payments made to the 41692
program exceeded the amount of publicly funded day-care provided 41693
by the program, the department shall require the program to return 41694
the excess amount or withhold the amount from future advance 41695
payments made to the program. 41696

(5) The department shall ensure that ~~any~~ the federal funds 41697
~~received by the state under the child care block grant act~~ will be 41698
used only to supplement, and will not be used to supplant, 41699
federal, state, and local funds available on the effective date of 41700
~~that~~ the child care block grant act for publicly funded child 41701
day-care and related programs. A county department of job and 41702
family services may purchase child day-care from funds obtained 41703
through any other means. 41704

~~(E)~~(D) The department shall encourage the development of 41705
suitable child day-care throughout the state, especially in areas 41706
with high concentrations of recipients of public assistance and 41707
families with low incomes. The department shall encourage the 41708
development of suitable child day-care designed to accommodate the 41709
special needs of migrant workers. On request, the department, 41710
through its employees or contracts with state or community child 41711
day-care resource and referral service organizations, shall 41712
provide consultation to groups and individuals interested in 41713
developing child day-care. The department of job and family 41714
services may enter into interagency agreements with the department 41715
of education, the board of regents, the department of development, 41716
and other state agencies and entities whenever the cooperative 41717
efforts of the other state agencies and entities are necessary for 41718
the department of job and family services to fulfill its duties 41719
and responsibilities under this chapter. 41720

The department may develop and maintain a registry of persons 41721
providing child day-care. The director may adopt rules pursuant to 41722
Chapter 119. of the Revised Code establishing procedures and 41723
requirements for the registry's administration. 41724

~~(F)~~(E) The director shall adopt rules in accordance with 41725
Chapter 119. of the Revised Code establishing a procedure for 41726
determining rates of reimbursement and payment and a procedure for 41727
reimbursing and paying providers of publicly funded child 41728
day-care. In establishing the rates of reimbursement pursuant to 41729
~~this division~~, the director shall use the information obtained 41730
under division (B)(3) of section 5104.04 of the Revised Code and 41731
may establish different rates of reimbursement based on the 41732
geographic location of the provider, type of care provided, age of 41733
the child served, special needs of the child, whether expanded 41734
hours of service are provided, whether weekend service is 41735
provided, whether the provider has exceeded the minimum 41736

requirements of state statutes and rules governing child day-care, 41737
and any other factors the director considers appropriate. The 41738
director shall establish an enhanced rate of ~~reimbursement~~ for 41739
providers who provide child day-care for caretaker parents who 41740
work nontraditional hours. For a type B family day-care home that 41741
has received limited certification pursuant to rules adopted under 41742
division (G)(1) of section 5104.011 of the Revised Code, the 41743
department shall adopt rules establishing a ~~reimbursement~~ rate 41744
that is the greater of the rate that was in effect for the home on 41745
October 1, 1997, or seventy-five per cent of the ~~reimbursement~~ 41746
rate that applies to a type B family day-care home certified by 41747
the same county department of job and family services pursuant to 41748
section 5104.11 of the Revised Code. 41749

Sec. 5104.32. (A) Except as provided in division (C) of this 41750
section, all purchases of publicly funded child day-care shall be 41751
made under a contract entered into by a licensed child day-care 41752
center, licensed type A family day-care home, certified type B 41753
family day-care home, certified in-home aide, approved child day 41754
camp, licensed preschool program, licensed school child program, 41755
or border state child day-care provider and the county department 41756
of job and family services. A county department of job and family 41757
services may enter into a contract with a provider for publicly 41758
funded child day-care for a specified period of time or upon a 41759
continuous basis for an unspecified period of time. All contracts 41760
for publicly funded child day-care shall be contingent upon the 41761
availability of state and federal funds. The department of job and 41762
family services shall prescribe a standard form to be used for all 41763
contracts for the purchase of publicly funded child day-care, 41764
regardless of the source of public funds used to purchase the 41765
child day-care. To the extent permitted by federal law and 41766
notwithstanding any other provision of the Revised Code that 41767
regulates state or county contracts or contracts involving the 41768

expenditure of state, county, or federal funds, all contracts for 41769
publicly funded child day-care shall be entered into in accordance 41770
with the provisions of this chapter and are exempt from any other 41771
provision of the Revised Code that regulates state or county 41772
contracts or contracts involving the expenditure of state, county, 41773
or federal funds. 41774

(B) Each contract for publicly funded child day-care shall 41775
specify at least the following: 41776

(1) Except as provided in division (B)(2) of this section, 41777
that the provider of publicly funded child day-care agrees to be 41778
paid for rendering services at the lower of the rate customarily 41779
charged by the provider for children enrolled for child day-care 41780
or the ~~rate~~ rates of reimbursement and payment established 41781
pursuant to section 5104.30 of the Revised Code; 41782

(2) If the provider provides publicly funded child day-care 41783
to caretaker parents who work nontraditional hours, that the 41784
provider is to be paid for rendering services to those caretaker 41785
parents at the ~~rate~~ rates of reimbursement and payment established 41786
pursuant to section 5104.30 of the Revised Code regardless of 41787
whether that rate is higher than the rate the provider customarily 41788
charges for children enrolled for child day-care; 41789

(3) That, if a provider provides child day-care to an 41790
individual potentially eligible for publicly funded child day-care 41791
who is subsequently determined to be eligible, the county 41792
department agrees to pay for all child day-care provided between 41793
the date the county department receives the individual's completed 41794
application and the date the individual's eligibility is 41795
determined; 41796

(4) Whether the county department of job and family services, 41797
the provider, or a child day-care resource and referral service 41798
organization will make eligibility determinations, whether the 41799

provider or a child day-care resource and referral service 41800
organization will be required to collect information to be used by 41801
the county department to make eligibility determinations, and the 41802
time period within which the provider or child day-care resource 41803
and referral service organization is required to complete required 41804
eligibility determinations or to transmit to the county department 41805
any information collected for the purpose of making eligibility 41806
determinations; 41807

(5) That the provider, other than a border state child 41808
day-care provider or except as provided in division (B) of section 41809
3301.37 of the Revised Code, shall continue to be licensed, 41810
approved, or certified pursuant to this chapter ~~or sections~~ 41811
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 41812
standards and other requirements in this chapter ~~and those~~ 41813
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 41814
~~sections~~ for maintaining the provider's license, approval, or 41815
certification; 41816

(6) That, in the case of a border state child day-care 41817
provider, the provider shall continue to be licensed, certified, 41818
or otherwise approved by the state in which the provider is 41819
located and shall comply with all standards and other requirements 41820
established by that state for maintaining the provider's license, 41821
certificate, or other approval; 41822

(7) Whether the provider will be paid by the county 41823
department of job and family services or the state department of 41824
job and family services; 41825

(8) That the contract is subject to the availability of state 41826
and federal funds. 41827

(C) Unless specifically prohibited by federal law, the county 41828
department of job and family services shall give individuals 41829
eligible for publicly funded child day-care the option of 41830

obtaining certificates for payment that the individual may use to 41831
purchase services from any provider qualified to provide publicly 41832
funded child day-care under section 5104.31 of the Revised Code. 41833
Providers of publicly funded child day-care may present these 41834
certificates for payment for reimbursement in accordance with 41835
rules that the director of job and family services shall adopt. 41836
Only providers may receive reimbursement for certificates for 41837
payment. The value of the certificate for payment shall be based 41838
on the lower of the rate customarily charged by the provider or 41839
the ~~rate~~ rates of reimbursement and payment established pursuant 41840
to section 5104.30 of the Revised Code, unless the provider 41841
provides publicly funded child day-care to caretaker parents who 41842
work nontraditional hours, in which case the value of the 41843
certificate for payment for the services to those caretaker 41844
parents shall be based on the ~~rate of reimbursement~~ rates 41845
established pursuant to that section regardless of whether that 41846
rate is higher than the rate customarily charged by the provider. 41847
The county department may provide the certificates for payment to 41848
the individuals or may contract with child day-care providers or 41849
child day-care resource and referral service organizations that 41850
make determinations of eligibility for publicly funded child 41851
day-care pursuant to contracts entered into under section 5104.34 41852
of the Revised Code for the providers or resource and referral 41853
service organizations to provide the certificates for payment to 41854
individuals whom they determine are eligible for publicly funded 41855
child day-care. 41856

For each six-month period a provider of publicly funded child 41857
day-care provides publicly funded child day-care to the child of 41858
an individual given certificates ~~of~~ for payment, the individual 41859
shall provide the provider certificates for days the provider 41860
would have provided publicly funded child day-care to the child 41861
had the child been present. County departments shall specify the 41862
maximum number of days providers will be provided certificates ~~of~~ 41863

for payment for days the provider would have provided publicly 41864
funded child day-care had the child been present. The maximum 41865
number of days shall not exceed ten days in a six-month period 41866
during which publicly funded child day-care is provided to the 41867
child regardless of the number of providers that provide publicly 41868
funded child day-care to the child during that period. 41869

Sec. 5107.02. As used in this chapter: 41870

(A) "Adult" means an individual who is not a minor child. 41871

(B) "Assistance group" means a group of individuals treated 41872
as a unit for purposes of determining eligibility for and the 41873
amount of assistance provided under Ohio works first. 41874

(C) "Custodian" means an individual who has legal custody, as 41875
defined in section 2151.011 of the Revised Code, of a minor child 41876
or comparable status over a minor child created by a court of 41877
competent jurisdiction in another state. 41878

(D) "Guardian" means an individual that is granted authority 41879
by a probate court pursuant to Chapter 2111. of the Revised Code, 41880
or a court of competent jurisdiction in another state, to exercise 41881
parental rights over a minor child to the extent provided in the 41882
court's order and subject to residual parental rights of the minor 41883
child's parents. 41884

(E) "Minor child" means either of the following: 41885

(1) An individual who has not attained age eighteen; 41886

(2) An individual who has not attained age nineteen and is a 41887
full-time student in a secondary school or in the equivalent level 41888
of vocational or technical training. 41889

(F) "Minor head of household" means a minor child who is 41890
either of the following: 41891

(1) ~~At~~ Is married, at least six months pregnant, and a member 41892

of an assistance group that does not include an adult;	41893
(2) A <u>Is married and is a</u> parent of a child included in the	41894
same assistance group that does not include an adult.	41895
(G) "Ohio works first" means the program established by this	41896
chapter known as temporary assistance for needy families in Title	41897
IV-A.	41898
(H) "Payment standard" means the amount specified in rules	41899
adopted under section 5107.05 of the Revised Code that is the	41900
maximum amount of cash assistance an assistance group may receive	41901
under Ohio works first from state and federal funds.	41902
(I) "Specified relative" means the following individuals who	41903
are age eighteen or older:	41904
(1) The following individuals related by blood or adoption:	41905
(a) Grandparents, including grandparents with the prefix	41906
"great," "great-great," or "great-great-great";	41907
(b) Siblings;	41908
(c) Aunts, uncles, nephews, and nieces, including such	41909
relatives with the prefix "great," "great-great," "grand," or	41910
"great-grand";	41911
(d) First cousins and first cousins once removed.	41912
(2) Stepparents and stepsiblings;	41913
(3) Spouses and former spouses of individuals named in	41914
division (I)(1) or (2) of this section.	41915
(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title	41916
IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.	41917
301, as amended.	41918
Sec. 5107.30. (A) As used in this section:	41919
(1) "LEAP program" means the learning, earning, and parenting	41920

program. 41921

(2) "Teen" means a participant of Ohio works first who is 41922
under age ~~twenty~~ eighteen or is age eighteen and in school and is 41923
a natural or adoptive parent or is pregnant. 41924

(3) "School" means an educational program that is designed to 41925
lead to the attainment of a high school diploma or the equivalent 41926
of a high school diploma. 41927

(B) The director of job and family services may adopt rules 41928
under section 5107.05 of the Revised Code, to the extent that such 41929
rules are consistent with federal law, to do all of the following: 41930

(1) Define "good cause" and "the equivalent of a high school 41931
diploma" for the purposes of this section; 41932

(2) Conduct ~~one or more special demonstration programs a~~ 41933
program titled the "LEAP program" and establish requirements 41934
governing the program. The purpose of the LEAP program is to 41935
encourage teens to complete school. 41936

(3) Require every teen who is subject to LEAP program 41937
requirements to attend school in accordance with the requirements 41938
governing the program unless the teen shows good cause for not 41939
attending school. The department shall provide, in addition to the 41940
cash assistance payment provided under Ohio works first, an 41941
incentive payment, in an amount determined by the department, to 41942
every teen who is participating in the LEAP program and attends 41943
school in accordance with the requirements governing the program. 41944
The department shall reduce the cash assistance payment, in an 41945
amount determined by the department, under Ohio works first to 41946
every teen participating in the LEAP program who fails or refuses, 41947
without good cause, to ~~attend school in accordance with~~ meet the 41948
requirements governing the program. 41949

(4) Require every teen who is subject to LEAP program 41950
requirements to enter into a written agreement with the county 41951

department of job and family services that provides all of the 41952
following: 41953

(a) The teen, to be eligible to receive the incentive payment 41954
under division (B)(3) of this section, must ~~attend school in~~ 41955
~~accordance with~~ meet the requirements of the LEAP program. 41956

(b) The county department will provide the incentive payment 41957
to the teen if the teen ~~attends school;~~ meets the requirements of
the LEAP program. 41958
41959

(c) The county department will reduce the cash assistance 41960
payment under Ohio works first if the teen fails or refuses 41961
without good cause to attend school in accordance with the 41962
requirements governing the LEAP program. 41963

~~(5) Evaluate the demonstration programs established under 41964
this section. In conducting the evaluations, the department of job 41965
and family services shall select control groups of teens who are 41966
otherwise subject to the LEAP program requirements. 41967~~

(C) A ~~teen~~ minor head of household who is participating in 41968
the LEAP program shall be considered to be participating in a work 41969
activity for the purpose of sections 5107.40 to 5107.69 of the 41970
Revised Code. However, the ~~teen~~ minor head of household is not 41971
subject to the requirements or sanctions of those sections, ~~unless~~ 41972
~~the teen is over age eighteen and meets the LEAP program~~ 41973
~~requirements by participating regularly in work activities,~~ 41974
~~developmental activities, or alternative work activities under~~ 41975
~~those sections.~~ 41976

(D) Subject to the availability of funds, county departments 41977
of job and family services shall provide for LEAP participants to 41978
receive support services the county department determines to be 41979
necessary for LEAP participation. Support services may include 41980
publicly funded child day-care under Chapter 5104. of the Revised 41981
Code, transportation, and other services. 41982

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. 41983
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(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. 41987
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Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code: 41991
41992

(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. 41993
41994
41995
41996

(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. 41997
41998
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42000

(C) "High school equivalence diploma" means a diploma attesting to achievement of the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education. "High school equivalence diploma" includes a certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development. 42001
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(D) "Work activity" means the following: 42010

(1) Unsubsidized employment activities established under 42011

section 5107.60 of the Revised Code;	42012
(2) The subsidized employment program established under section 5107.52 of the Revised Code;	42013 42014
(3) The work experience program established under section 5107.54 of the Revised Code;	42015 42016
(4) On-the-job training activities established under section 5107.60 of the Revised Code;	42017 42018
(5) The job search and readiness program established under section 5107.50 of the Revised Code;	42019 42020
(6) Community service activities established under section 5107.60 of the Revised Code;	42021 42022
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	42023 42024
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	42025 42026 42027
(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;	42028 42029 42030 42031
(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;	42032 42033 42034 42035 42036 42037
(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;	42038 42039 42040 42041

(12) The education program established under section 5107.58 42042
of the Revised Code that are operated pursuant to a federal waiver 42043
granted by the United States secretary of health and human 42044
services pursuant to a request made under former section 5101.09 42045
of the Revised Code; 42046

(13) ~~Except as limited~~ To the extent provided by division (C) 42047
of section 5107.30 of the Revised Code, the LEAP program 42048
established under that section. 42049

Sec. 5107.60. In accordance with Title IV-A, federal 42050
regulations, state law, the Title IV-A state plan prepared under 42051
section 5101.80 of the Revised Code, and amendments to the plan, 42052
county departments of job and family services shall establish and 42053
administer the following work activities, in addition to the work 42054
activities established under sections 5107.50, 5107.52, 5107.54, 42055
and 5107.58 of the Revised Code, for minor heads of households and 42056
adults participating in Ohio works first: 42057

(A) Unsubsidized employment activities, including activities 42058
a county department determines are legitimate entrepreneurial 42059
activities; 42060

(B) On-the-job training activities, including training to 42061
become an employee of a child day-care center or type A family 42062
day-care home, authorized provider of a certified type B family 42063
day-care home, or in-home aide; 42064

(C) Community service activities including a program under 42065
which a participant of Ohio works first who is the parent, 42066
guardian, custodian, or specified relative responsible for the 42067
care of a minor child enrolled in grade twelve or lower is 42068
involved in the minor child's education on a regular basis; 42069

(D) Vocational educational training activities; 42070

(E) Jobs skills training activities that are directly related 42071

to employment;	42072
(F) Education activities that are directly related to	42073
employment for participants who have not earned a high school	42074
diploma or high school equivalence diploma;	42075
(G) Education activities for participants who have not	42076
completed secondary school or received a high school equivalence	42077
diploma under which the participants attend a secondary school or	42078
a course of study leading to a high school equivalence diploma,	42079
<u>including LEAP participation by a minor head of household;</u>	42080
(H) Child-care service activities aiding another participant	42081
assigned to a community service activity or other work activity. A	42082
county department may provide for a participant assigned to this	42083
work activity to receive training necessary to provide child-care	42084
services.	42085
Sec. 5108.01. As used in this chapter:	42086
(A) "Assistance group" means a group of individuals treated	42087
as a unit for purposes of determining eligibility for the	42088
prevention, retention, and contingency program <u>"County family</u>	42089
<u>services planning committee" means the county family services</u>	42090
<u>planning committee established under section 329.06 of the Revised</u>	42091
<u>Code or the board created by consolidation under division (C) of</u>	42092
<u>section 6301.06 of the Revised Code.</u>	42093
(B) "Prevention, retention, and contingency program" means	42094
the program established by this chapter and funded in part with	42095
federal funds provided under Title IV-A.	42096
(C) "Title IV-A" means Title IV-A of the "Social Security	42097
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	42098
Sec. 5108.03. Under the prevention, retention, and	42099
contingency program, a <u>each</u> county department of job and family	42100

services shall ~~provide~~ do both of the following in accordance with 42101
the statement of policies the county department develops under 42102
section 5108.04 of the Revised Code: 42103

(A) Provide benefits and services that individuals need to 42104
overcome immediate barriers to achieving or maintaining self 42105
sufficiency and personal responsibility; 42106

(B) Perform related administrative duties. ~~A county~~ 42107
~~department shall provide the benefits and services in accordance~~ 42108
~~with either the model design for the program that the department~~ 42109
~~of job and family services develops under section 5108.05 of the~~ 42110
~~Revised Code or the county department's own policies for the~~ 42111
~~program developed under section 5108.06 of the Revised Code.~~ 42112

Sec. ~~5108.06~~ 5108.04. Each county department of job and 42113
family services shall ~~either adopt the model design for a written~~ 42114
statement of policies governing the prevention, retention, and 42115
~~contingency program the department of job and family services~~ 42116
~~develops under section 5108.05 of the Revised Code or develop its~~ 42117
~~own policies~~ for the program county. ~~To develop its own policies,~~ 42118
~~a county department shall adopt a written statement of the~~ 42119
~~policies governing the program. The policies may be a modification~~ 42120
~~of the model design, different from the model design, or a~~ 42121
~~combination.~~ The statement of policies shall be adopted not later 42122
than October 1, 2003, and shall be updated at least every two 42123
years thereafter. A county department may amend its statement of 42124
policies to modify, terminate, and establish new policies. The 42125
county director of job and family services shall sign and date the 42126
statement of policies and any amendment to it. Neither the 42127
statement of policies nor any amendment to it may have an 42128
effective date that is earlier than the date of the county 42129
director's signature. 42130

A Each county department of job and family services shall 42131

~~inform~~ provide the department of job and family services of 42132
~~whether it has adopted the model design or developed its own~~ 42133
~~policies for the prevention, retention, and contingency program.~~ 42134
~~If a county department develops its own policies, it shall provide~~ 42135
~~the department a written copy of the statement of policies and any~~ 42136
~~amendments it adopts to the statement~~ not later than ten calendar 42137
days after the statement or amendment's effective date. 42138

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention,~~ 42139
~~retention, and contingency program that the department of job and~~ 42140
~~family services develops under section 5108.05 of the Revised Code~~ 42141
~~and policies for the program that a county department of job and~~ 42142
~~family services may develop under section 5108.06 of the Revised~~ 42143
~~Code shall establish~~ In adopting a statement of policies under 42144
section 5108.04 of the Revised Code for the county's prevention, 42145
retention, and contingency program, each county department of job 42146
and family services shall do all of the following: 42147

(A) Establish or specify eligibility requirements for 42148
~~assistance groups that apply for the program under section 5108.10~~ 42149
~~of the Revised Code, benefits~~ all of the following: 42150

(1) Benefits and services to be provided under the program ~~to~~ 42151
~~assistance groups, administrative~~ that are allowable uses of 42152
federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except 42153
that they may not be "assistance" as defined in 45 C.F.R. 42154
260.31(a) but rather benefits and services that 45 C.F.R. 42155
260.31(b) excludes from the definition of assistance; 42156

(2) Restrictions on the amount, duration, and frequency of 42157
the benefits and services; 42158

(3) Eligibility requirements for the benefits and services; 42159

(4) Fair and equitable procedures for both of the following: 42160

(a) The certification of eligibility for the benefits and 42161

services that do not have a financial need eligibility 42162
requirement; 42163

(b) The determination and verification of eligibility for the 42164
benefits and services that have a financial need eligibility 42165
requirement. 42166

(5) Objective criteria for the delivery of the benefits and 42167
services; 42168

(6) Administrative requirements, and other; 42169

(7) Other matters the department, in the case of the model 42170
design, or a county department, in the case of county policies, 42171
determine determines are necessary. 42172

~~The model design and a county department's policies may~~ 42173
~~establish eligibility requirements for, and specify benefits and~~ 42174
~~services to be provided to, types of groups, such as students in~~ 42175
~~the same class, that share a common need for the benefits and~~ 42176
~~services. If the model design or a county department's policies~~ 42177
~~include such a provision, the model design or county department's~~ 42178
~~policies shall require that each individual who is to receive the~~ 42179
~~benefits and services meet the eligibility requirements~~ 42180
~~established for the type of group of which the individual is a~~ 42181
~~member. The model design or county department's policies also~~ 42182
~~shall require that the county department providing the benefits~~ 42183
~~and services certify the group's eligibility, specify the duration~~ 42184
~~that the group is to receive the benefits and services, and~~ 42185
~~maintain the eligibility information for each member of the group~~ 42186
~~receiving the benefits and services.~~ 42187

~~The model design and a county department's policies may~~ 42188
~~specify benefits and services that a county department may provide~~ 42189
~~for the general public, including billboards that promote the~~ 42190
~~prevention, and reduction in the incidence, of out of wedlock~~ 42191
~~pregnancies or encourage the formation and maintenance of~~ 42192

two parent families.	42193
The model design and a county department's policies must be	42194
consistent with (B) Provide for the statement of policies to be	42195
consistent with all of the following:	42196
(1) The plan of cooperation the board of county commissioners	42197
develops under section 307.983 of the Revised Code;	42198
(2) The review and analysis of the county family services	42199
committee conducted in accordance with division (B)(2) of section	42200
329.06 of the Revised Code;	42201
(3) Title IV-A, federal regulations, state law, the Title	42202
IV-A state plan submitted to the United States secretary of health	42203
and human services under section 5101.80 of the Revised Code, and	42204
amendments to the plan. All benefits and services to be provided	42205
under the model design or a county department's policies must be	42206
allowable uses of federal Title IV A funds as specified in 42	42207
U.S.C.A. 604(a), except that they may not be "assistance" as	42208
defined in 45 C.F.R. 260.31(a). The benefits and services shall be	42209
benefits and services that 45 C.F.R. 260.31(b) excludes from the	42210
definition of assistance.	42211
(C) Either provide the public and local government entities	42212
at least thirty days to submit comments on, or have the county	42213
family services planning committee review, the statement of	42214
policies, including the design of the county's prevention,	42215
retention, and contingency program, before the county director	42216
signs and dates the statement of policies.	42217
Sec. 5108.06. In adopting a statement of policies under	42218
section 5108.04 of the Revised Code for the county's prevention,	42219
retention, and contingency program, a county department of job and	42220
family services may specify both of the following:	42221
(A) Benefits and services to be provided under the program	42222

that prevent and reduce the incidence of out-of-wedlock 42223
pregnancies or encourage the formation and maintenance of 42224
two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 42225

(B) How the county department will certify individuals' 42226
eligibility for such benefits and services. 42227

Sec. 5108.07. (A) Each statement of policies adopted under 42228
section 5108.04 of the Revised Code shall include the board of 42229
county commissioners' certification that the county department of 42230
job and family services complied with this chapter in adopting the 42231
statement of policies. 42232

(B) The board of county commissioners shall revise its 42233
certification under division (A) of this section if an amendment 42234
to the statement of policies that the board considers to be 42235
significant is adopted under section 5108.04 of the Revised Code. 42236

Sec. 5108.09. When a state hearing under division (B) of 42237
section 5101.35 of the Revised Code or an administrative appeal 42238
under division (C) of that section is held regarding the 42239
prevention, retention, and contingency program, the hearing 42240
officer, director of job and family services, or director's 42241
designee shall base the decision in the hearing or appeal on ~~the~~ 42242
~~following:~~ 42243

~~(A) If the county department of job and family services~~ 42244
~~involved in the hearing or appeal adopted the department of job~~ 42245
~~and family services' model design for the program developed under~~ 42246
~~section 5108.05 of the Revised Code, the model design:~~ 42247

~~(B) If the county department developed its own policies for~~ 42248
~~the program,~~ the county department's department of job and family 42249
services' written statement of policies adopted under section 42250
~~5108.06~~ 5108.04 of the Revised Code and any amendments the county 42251
department adopted to the statement if the county department 42252

provides a copy of the statement of policies and all amendments to 42253
the hearing officer, director, or director's designee at the 42254
hearing or appeal. 42255

Sec. 5108.10. ~~An assistance group seeking to participate in~~ 42256
~~the prevention, retention, and contingency program shall apply to~~ 42257
~~a county department of job and family services using~~ Eligibility 42258
for a benefit or service under a county's prevention, retention, 42259
and contingency program shall be certified in accordance with the 42260
statement of policies adopted under section 5108.04 of the Revised 42261
Code if the benefit or service does not have a financial need 42262
eligibility requirement. 42263

Eligibility for a benefit or service shall be determined in 42264
accordance with the statement of policies and based on an 42265
application containing information the county department of job 42266
and family services requires. 42267

~~When if the benefit or service has a financial need~~ 42268
eligibility requirement. When a county department receives an 42269
application for ~~participation in the prevention, retention, and~~ 42270
~~contingency program~~ such benefits and services, it shall promptly 42271
~~make an investigation and record of the circumstances of the~~ 42272
~~applicant in order to ascertain~~ follow verification procedures 42273
established by the statement of policies to verify the facts 42274
surrounding the application and to obtain such other information 42275
as may be required. On completion of the ~~investigation~~ 42276
verification procedure, the county department shall determine 42277
whether the applicant is eligible ~~to participate,~~ for the benefits 42278
or services ~~the applicant should receive,~~ and the approximate date 42279
when ~~participation is~~ the benefits or services are to begin. 42280

Sec. 5108.11. (A) To the extent permitted by section 307.982 42281
of the Revised Code, a board of county commissioners may enter 42282

into a written contract with a private or government entity for 42283
the entity to do either or both of the following for the county's 42284
prevention, retention, and contingency program: 42285

(1) Certify eligibility for benefits and services that do not 42286
have a financial need eligibility requirement; 42287

(2) Accept applications and determine and verify eligibility 42288
for benefits and services that have a financial need eligibility 42289
requirement. 42290

(B) If a board of county commissioners enters into a contract 42291
under division (A) of this section with a private or government 42292
entity, the county department of job and family services shall do 42293
all of the following: 42294

(1) Ensure that eligibility for benefits and services is 42295
certified or determined and verified in accordance with the 42296
statement of policies adopted under section 5108.04 of the Revised 42297
Code; 42298

(2) Ensure that the private or government entity maintains 42299
all records that are necessary for audits; 42300

(3) Monitor the private or government entity for compliance 42301
with Title IV-A, this chapter of the Revised Code, and the 42302
statement of policies; 42303

(4) Take actions that are necessary to recover any funds that 42304
are not spent in accordance with Title IV-A or this chapter of the 42305
Revised Code. 42306

Sec. 5108.12. Each county department of job and family 42307
services is responsible for funds expended or claimed under the 42308
county's prevention, retention, and contingency program that the 42309
department of job and family services, auditor of state, United 42310
States department of health and human services, or other 42311
government entity determines is expended or claimed in a manner 42312

that federal or state law or policy does not permit. 42313

Sec. 5111.016. (A) As used in this section, "healthcheck" has 42314
the same meaning as in section 3313.714 of the Revised Code. 42315

(B) In accordance with federal law and regulations, the 42316
department of job and family services shall establish a 42317
combination of written and oral methods designed to provide 42318
information about healthcheck to all persons eligible for the 42319
program or their parents or guardians. The department shall ensure 42320
that its methods of providing information are effective. 42321

Each county department of job and family services or other 42322
entity that distributes or accepts applications for medical 42323
assistance shall prominently display in a conspicuous place the 42324
following notice: 42325

"Under state and federal law, if you are a Medicaid 42326
recipient, your child is entitled to a thorough medical 42327
examination provided through Healthcheck. Once this examination is 42328
completed, your child is entitled to receive, at no cost to you, 42329
any service determined to be medically necessary." 42330

(C) Before a healthcheck medical examination may be performed 42331
on a child, the department of job and family services shall do 42332
both of the following: 42333

(1) Inform the child's parent, through both oral and written 42334
communication, that the examination may include the following 42335
components: 42336

(a) A mental evaluation; 42337

(b) A physical assessment; 42338

(c) An unclothed physical examination of the child's 42339
reproductive system, including a genital examination. 42340

(2) Obtain the parent's consent to perform the examination. 42341

The department shall not require a parent to consent to a healthcheck medical examination for the parent's child as a condition of receipt of other medicaid services. 42342
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Sec. 5111.019. (A) ~~The~~ If sufficient funds are appropriated by the general assembly, the director of job and family services shall may submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible for medicaid for the amount of time provided by division (B) of this section: 42345
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(1) The individual is the parent of a child under nineteen years of age and resides with the child; 42352
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(2) The individual's family income does not exceed one hundred per cent of the federal poverty guidelines; 42354
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(3) The individual is not otherwise eligible for medicaid; 42356

(4) The individual satisfies all relevant requirements established by rules adopted under division (D) of section 5111.01 of the Revised Code. 42357
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(B) An individual is eligible to receive medicaid under this section for a period that does not exceed two years beginning on the date on which eligibility is established. 42360
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~~(C) If approved by the United States secretary of health and human services and the director of job and family services, the director shall implement the medicaid plan amendment submitted under this section not sooner than July 1, 2000. If a federal waiver is necessary for the United States secretary to approve the amendment, the director of job and family services shall submit a waiver request to the United States secretary not later than ninety days after the effective date of this section.~~ 42363
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Sec. 5111.0112. The director of job and family services shall 42371
examine instituting a copayment program under medicaid. As part of 42372
the examination, the director shall determine which groups of 42373
medicaid recipients may be subjected to a copayment requirement 42374
under federal statutes and regulations ~~and which of those groups~~ 42375
~~are appropriate for a copayment program designed to reduce~~ 42376
~~inappropriate and excessive use of medical goods and services.~~ If, 42377
on completion of the examination, the director determines that it 42378
is feasible to institute such a copayment program, the director 42379
may seek approval from the United States secretary of health and 42380
human services to institute the copayment program. If necessary, 42381
the director may seek approval by applying for a waiver of federal 42382
statutes and regulations. If such approval is obtained, the 42383
director shall adopt rules in accordance with Chapter 119. of the 42384
Revised Code governing the copayment program. 42385

Sec. 5111.0113. Children who are in the temporary or 42386
permanent custody of a certified public or private nonprofit 42387
agency or institution or in adoptions subsidized under division 42388
(B) of section 5153.163 of the Revised Code are eligible for 42389
medical assistance through the medicaid program established under 42390
section 5111.01 of the Revised Code. 42391

Sec. 5111.02. (A) Under the medical assistance program: 42392

(1) Except as otherwise permitted by federal statute or 42393
regulation and at the department's discretion, reimbursement by 42394
the department of job and family services to a medical provider 42395
for any medical service rendered under the program shall not 42396
exceed the authorized reimbursement level for the same service 42397
under the medicare program established under Title XVIII of the 42398
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 42399
amended. 42400

(2) Reimbursement for freestanding medical laboratory charges 42401
shall not exceed the customary and usual fee for laboratory 42402
profiles. 42403

(3) The department may deduct from payments for services 42404
rendered by a medicaid provider under the medical assistance 42405
program any amounts the provider owes the state as the result of 42406
incorrect medical assistance payments the department has made to 42407
the provider. 42408

(4) The department may conduct final fiscal audits in 42409
accordance with the applicable requirements set forth in federal 42410
laws and regulations and determine any amounts the provider may 42411
owe the state. When conducting final fiscal audits, the department 42412
shall consider generally accepted auditing standards, which 42413
include the use of statistical sampling. 42414

(5) The number of days of inpatient hospital care for which 42415
reimbursement is made on behalf of a recipient of medical 42416
assistance to a hospital that is not paid under a 42417
diagnostic-related-group prospective payment system shall not 42418
exceed thirty days during a period beginning on the day of the 42419
recipient's admission to the hospital and ending sixty days after 42420
the termination of that hospital stay, except that the department 42421
may make exceptions to this limitation. The limitation does not 42422
apply to children participating in the program for medically 42423
handicapped children established under section 3701.023 of the 42424
Revised Code. 42425

(B) The director of job and family services may adopt, amend, 42426
or rescind rules under Chapter 119. of the Revised Code 42427
establishing the amount, duration, and scope of medical services 42428
to be included in the medical assistance program. Such rules shall 42429
establish the conditions under which services are covered and 42430
reimbursed, the method of reimbursement applicable to each covered 42431

service, and the amount of reimbursement or, in lieu of such 42432
amounts, methods by which such amounts are to be determined for 42433
each covered service. Any rules that pertain to nursing facilities 42434
or intermediate care facilities for the mentally retarded shall be 42435
consistent with sections 5111.20 to 5111.33 of the Revised Code. 42436

~~(C) No health insuring corporation that has a contract to 42437
provide health care services to recipients of medical assistance 42438
shall restrict the availability to its enrollees of any 42439
prescription drugs included in the Ohio medicaid drug formulary as 42440
established under rules adopted by the director. 42441~~

~~(D) The division of any reimbursement between a collaborating 42442
physician or podiatrist and a clinical nurse specialist, certified 42443
nurse-midwife, or certified nurse practitioner for services 42444
performed by the nurse shall be determined and agreed on by the 42445
nurse and collaborating physician or podiatrist. In no case shall 42446
reimbursement exceed the payment that the physician or podiatrist 42447
would have received had the physician or podiatrist provided the 42448
entire service. 42449~~

Sec. 5111.022. (A) As used in this section: 42450

(1) "Community mental health facility" means a community 42451
mental health facility that has a quality assurance program 42452
accredited by the joint commission on accreditation of healthcare 42453
organizations or is certified by the department of mental health 42454
or department of job and family services. 42455

(2) "Mental health professional" means a person qualified to 42456
work with mentally ill persons under the standards established by 42457
the director of mental health pursuant to section 5119.611 of the 42458
Revised Code. 42459

~~(B) The state medicaid plan for providing medical assistance 42460
under Title XIX of the "Social Security Act," 49 Stat. 620, 42 42461~~

U.S.C.A. 301, ~~as amended,~~ shall include provision of the following 42462
mental health services when provided by community mental health 42463
facilities ~~described in division (B) of this section:~~ 42464

(1) Outpatient mental health services, including, but not 42465
limited to, preventive, diagnostic, therapeutic, rehabilitative, 42466
and palliative interventions rendered to individuals in an 42467
individual or group setting by a mental health professional in 42468
accordance with a plan of treatment appropriately established, 42469
monitored, and reviewed; 42470

(2) Partial-hospitalization mental health services of three 42471
to fourteen hours per service day, rendered by persons directly 42472
supervised by a mental health professional; 42473

(3) Unscheduled, emergency mental health services of a kind 42474
ordinarily provided to persons in crisis when rendered by persons 42475
supervised by a mental health professional; 42476

(4) Subject to receipt of federal approval, assertive 42477
community treatment and intensive home-based mental health 42478
services. 42479

~~(B) Services shall be included in the state plan only when~~ 42480
~~provided by community mental health facilities that have quality~~ 42481
~~assurance programs accredited by the joint commission on~~ 42482
~~accreditation of healthcare organizations or certified by the~~ 42483
~~department of mental health or department of job and family~~ 42484
~~services.~~ 42485

(C) The comprehensive annual plan shall certify the 42486
availability of sufficient unencumbered community mental health 42487
state subsidy and local funds to match Title XIX federal medicaid 42488
reimbursement funds earned by the community mental health 42489
facilities. ~~Reimbursement for eligible services shall be based on~~ 42490
~~the prospective cost of providing the services as developed in~~ 42491
~~standards adopted as part of the comprehensive annual plan.~~ 42492

~~(D) As used in this section, "mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.~~ 42493
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~~(E) With respect to services established by division (A) of this section, the The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section. The terms of the contract between the department of job and family services and the department of mental health shall specify both of the following:~~ 42497
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~~(1) That the department of mental health and boards of alcohol, drug addiction, and mental health services shall provide state and local matching funds for Title XIX of the "Social Security Act," for reimbursement of services established by division (A) of this section;~~ 42505
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~~(2) How the community mental health facilities described in division (B) of this section will be paid for providing the services established by division (A) of this section.~~ 42510
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~~(E) Not later than May 1, 2004, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~ 42513
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~~(F) On receipt of federal approval sought under division (F) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide access and acuity standards for partial hospitalization mental health services and assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall~~ 42517
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consult with the department of mental health in adopting the 42524
rules. 42525

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 42526
the Revised Code, the director of job and family services shall 42527
modify the manner or establish a new manner in which the following 42528
are paid under medicaid: 42529

(1) Community mental health facilities for providing mental 42530
health services included in the state medicaid plan pursuant to 42531
section 5111.022 of the Revised Code; 42532

(2) Providers of alcohol and drug addiction services for 42533
providing alcohol and drug addiction services included in the 42534
medicaid program pursuant to rules adopted under section 5111.02 42535
of the Revised Code. 42536

(B) In modifying the manner, or establishing a new manner, 42537
for medicaid to pay for the services specified in division (A) of 42538
this section, the director shall include a provision for obtaining 42539
federal financial participation for the costs that each board of 42540
alcohol, drug addiction, and mental health services incurs in its 42541
administration of those services. Except as provided in section 42542
5111.92 of the Revised Code, the department of job and family 42543
services shall pay the federal financial participation obtained 42544
for such administrative costs to the board that incurs the 42545
administrative costs. 42546

(C) The director's authority to modify the manner, or to 42547
establish a new manner, for medicaid to pay for the services 42548
specified in division (A) of this section is not limited by any 42549
rules adopted under section 5111.02 or 5119.61 of the Revised Code 42550
that are in effect on the effective date of this section and 42551
govern the way medicaid pays for those services. This is the case 42552
regardless of what state agency adopted the rules. 42553

Sec. 5111.03. (A) No provider of services or goods 42554
contracting with the department of job and family services 42555
pursuant to the medicaid program shall, by deception, obtain or 42556
attempt to obtain payments under this chapter to which the 42557
provider is not entitled pursuant to the provider agreement, or 42558
the rules of the federal government or the department of job and 42559
family services relating to the program. No provider shall 42560
willfully receive payments to which the provider is not entitled, 42561
or willfully receive payments in a greater amount than that to 42562
which the provider is entitled; nor shall any provider falsify any 42563
report or document required by state or federal law, rule, or 42564
provider agreement relating to medicaid payments. As used in this 42565
section, a provider engages in "deception" when the provider, 42566
acting with actual knowledge of the representation or information 42567
involved, acting in deliberate ignorance of the truth or falsity 42568
of the representation or information involved, or acting in 42569
reckless disregard of the truth or falsity of the representation 42570
or information involved, deceives another or causes another to be 42571
deceived by any false or misleading representation, by withholding 42572
information, by preventing another from acquiring information, or 42573
by any other conduct, act, or omission that creates, confirms, or 42574
perpetuates a false impression in another, including a false 42575
impression as to law, value, state of mind, or other objective or 42576
subjective fact. No proof of specific intent to defraud is 42577
required to show, for purposes of this section, that a provider 42578
has engaged in deception. 42579

(B) Any provider who violates division (A) of this section 42580
shall be liable, in addition to any other penalties provided by 42581
law, for all of the following civil penalties: 42582

(1) Payment of interest on the amount of the excess payments 42583
at the maximum interest rate allowable for real estate mortgages 42584

under section 1343.01 of the Revised Code on the date the payment 42585
was made to the provider for the period from the date upon which 42586
payment was made, to the date upon which repayment is made to the 42587
state; 42588

(2) Payment of an amount equal to three times the amount of 42589
any excess payments; 42590

(3) Payment of a sum of not less than five thousand dollars 42591
and not more than ten thousand dollars for each deceptive claim or 42592
falsification; 42593

(4) All reasonable expenses which the court determines have 42594
been necessarily incurred by the state in the enforcement of this 42595
section. 42596

(C) ~~In~~ As used in this division, "intermediate care facility 42597
for the mentally retarded" and "nursing facility" have the same 42598
meanings given in section 5111.20 of the Revised Code. 42599

In addition to the civil penalties provided in division (B) 42600
of this section, the director of job and family services, upon the 42601
conviction of, or the entry of a judgment in either a criminal or 42602
civil action against, a medicaid provider or its owner, officer, 42603
authorized agent, associate, manager, or employee in an action 42604
brought pursuant to section 109.85 of the Revised Code, shall 42605
terminate the provider agreement between the department and the 42606
provider and stop reimbursement to the provider for services 42607
rendered for a period of up to five years from the date of 42608
conviction or entry of judgment. As used in this chapter, "owner" 42609
means any person having at least five per cent ownership in the 42610
medicaid provider. No such provider, owner, officer, authorized 42611
agent, associate, manager, or employee shall own or provide 42612
services to any other medicaid provider or risk contractor or 42613
arrange for, render, or order services for medicaid recipients 42614
during the period of termination as provided in division (C) of 42615

this section, nor, during the period of termination as provided in 42616
division (C) of this section, shall such provider, owner, officer, 42617
authorized agent, associate, manager, or employee receive 42618
reimbursement in the form of direct payments from the department 42619
or indirect payments of medicaid funds in the form of salary, 42620
shared fees, contracts, kickbacks, or rebates from or through any 42621
participating provider or risk contractor. The provider agreement 42622
shall not be terminated or reimbursement terminated if the 42623
provider or owner can demonstrate that the provider or owner did 42624
not directly or indirectly sanction the action of its authorized 42625
agent, associate, manager, or employee that resulted in the 42626
conviction or entry of a judgment in a criminal or civil action 42627
brought pursuant to section 109.85 of the Revised Code. Nothing in 42628
this division prohibits any owner, officer, authorized agent, 42629
associate, manager, or employee of a medicaid provider from 42630
entering into a medicaid provider agreement if the person can 42631
demonstrate that the person had no knowledge of an action of the 42632
medicaid provider the person was formerly associated with that 42633
resulted in the conviction or entry of a judgment in a criminal or 42634
civil action brought pursuant to section 109.85 of the Revised 42635
Code. 42636

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 42637
~~Revised Code~~ Nursing facility or intermediate care facility for 42638
the mentally retarded providers whose agreements are terminated 42639
pursuant to this section may continue to receive reimbursement for 42640
up to thirty days after the effective date of the termination if 42641
the provider makes reasonable efforts to transfer recipients to 42642
another facility or to alternate care and if federal funds are 42643
provided for such reimbursement. 42644

(D) Any provider of services or goods contracting with the 42645
department of job and family services pursuant to Title XIX of the 42646
"Social Security Act," who, without intent, obtains payments under 42647

this chapter in excess of the amount to which the provider is 42648
entitled, thereby becomes liable for payment of interest on the 42649
amount of the excess payments at the maximum real estate mortgage 42650
rate on the date the payment was made to the provider for the 42651
period from the date upon which payment was made to the date upon 42652
which repayment is made to the state. 42653

(E) The attorney general on behalf of the state may commence 42654
proceedings to enforce this section in any court of competent 42655
jurisdiction; and the attorney general may settle or compromise 42656
any case brought under this section with the approval of the 42657
department of job and family services. Notwithstanding any other 42658
provision of law providing a shorter period of limitations, the 42659
attorney general may commence a proceeding to enforce this section 42660
at any time within six years after the conduct in violation of 42661
this section terminates. 42662

(F) The authority, under state and federal law, of the 42663
department of job and family services or a county department of 42664
job and family services to recover excess payments made to a 42665
provider is not limited by the availability of remedies under 42666
sections 5111.11 and 5111.12 of the Revised Code for recovering 42667
benefits paid on behalf of recipients of medical assistance. 42668

The penalties under this chapter apply to any overpayment, 42669
billing, or falsification occurring on and after April 24, 1978. 42670
All moneys collected by the state pursuant to this section shall 42671
be deposited in the state treasury to the credit of the general 42672
revenue fund. 42673

Sec. 5111.06. (A)(1) As used in this section: 42674

(a) "Provider" means any person, institution, or entity that 42675
furnishes medicaid services under a provider agreement with the 42676
department of job and family services pursuant to Title XIX of the 42677
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 42678

amended. 42679

(b) "Party" has the same meaning as in division (G) of 42680
section 119.01 of the Revised Code. 42681

(c) "Adjudication" has the same meaning as in division (D) of 42682
section 119.01 of the Revised Code. 42683

(2) This section does not apply to any action taken by the 42684
department of job and family services under sections 5111.35 to 42685
5111.62 of the Revised Code. 42686

(B) Except as provided in division (D) of this section, the 42687
department shall do either of the following by issuing an order 42688
pursuant to an adjudication conducted in accordance with Chapter 42689
119. of the Revised Code: 42690

(1) Enter into or refuse to enter into a provider agreement 42691
with a provider, or suspend, terminate, renew, or refuse to renew 42692
an existing provider agreement with a provider; 42693

(2) Take any action based upon a final fiscal audit of a 42694
provider. 42695

(C) Any party who is adversely affected by the issuance of an 42696
adjudication order under division (B) of this section may appeal 42697
to the court of common pleas of Franklin county in accordance with 42698
section 119.12 of the Revised Code. 42699

(D) The department is not required to comply with division 42700
(B)(1) of this section whenever any of the following occur: 42701

(1) The terms of a provider agreement require the provider to 42702
have a license, permit, or certificate issued by an official, 42703
board, commission, department, division, bureau, or other agency 42704
of state government other than the department of job and family 42705
services, and the license, permit, or certificate has been denied 42706
or revoked. 42707

(2) The provider agreement is denied, terminated, or not 42708

renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code; 42709
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(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; 42711
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(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; 42717
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(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. 42721
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(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded ~~subject to sections as defined in section 5111.20 to 5111.32~~ of the Revised Code. 42725
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Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and 42739

every second December thereafter, the director of job and family 42740
services shall establish a dispensing fee, effective the following 42741
January, for licensed pharmacists who are providers under this 42742
chapter. The dispensing fee shall take into consideration the 42743
results of the survey conducted under section 5111.07 of the 42744
Revised Code. 42745

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of 42746
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 42747
U.S.C.A. 1396r-8(g), as amended, the department of job and family 42748
services shall establish an outpatient drug use review program to 42749
assure that prescriptions obtained by recipients of medical 42750
assistance under this chapter are appropriate, medically 42751
necessary, and unlikely to cause adverse medical results. 42752

Sec. 5111.083. (A) Each time before the director of job and 42753
family services contracts with a person to administer the medicaid 42754
program's preferred drug list established under rules adopted 42755
under section 5111.02 of the Revised Code or supplemental drug 42756
rebate program established under section 5111.082 of the Revised 42757
Code, an advisory council consisting of the following members 42758
shall be appointed to review the proposals submitted by persons 42759
seeking the contract and to select the person who is to be awarded 42760
the contract: 42761

(1) The director of job and family services; 42762

(2) One member of the house of representatives who is a 42763
member of the majority party and one member of the house of 42764
representatives who is a member of the minority party, appointed 42765
by the speaker of the house of representatives; 42766

(3) One member of the senate who is a member of the majority 42767
party and one member of the senate who is a member of the minority 42768
party, appointed by the president of the senate; 42769

<u>(4) One representative of patient advocates, appointed by the speaker of the house of representatives;</u>	42770 42771
<u>(5) One representative of patient advocates, appointed by the president of the senate;</u>	42772 42773
<u>(6) One representative of the Ohio state medical association, appointed by that association's executive director;</u>	42774 42775
<u>(7) One representative of large businesses, appointed by the president of the Ohio chamber of commerce;</u>	42776 42777
<u>(8) One representative of small businesses, appointed by the state director of the Ohio chapter of the national federation of independent businesses;</u>	42778 42779 42780
<u>(9) One representative of local government, appointed by the executive director of the county commissioners' association of Ohio.</u>	42781 42782 42783
<u>The advisory council shall elect a chairperson from among its members.</u>	42784 42785
<u>(B) All of the following apply to an advisory council appointed under this section:</u>	42786 42787
<u>(1) It is subject to the open meetings law under section 121.22 of the Revised Code.</u>	42788 42789
<u>(2) Its members may vote to select the person to be awarded the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program only if a quorum of the members is present at the meeting at which the vote is taken.</u>	42790 42791 42792 42793
<u>(3) Its members shall not be reimbursed for their expenses incurred in their work on the advisory council.</u>	42794 42795
<u>(4) It may seek grants, donations, or other funds to pay for its activities.</u>	42796 42797
<u>(5) It shall cease to exist when it selects the person to be</u>	42798

awarded the contract that the advisory council was appointed to 42799
select. 42800

(C) The department of job and family services shall provide 42801
to an advisory council appointed under this section copies of 42802
proposals submitted by each person seeking the contract to 42803
administer the medicaid program's preferred drug list or 42804
supplemental drug rebate program for which the advisory council 42805
was appointed. The department shall redact from each copy of each 42806
proposal it provides to an advisory council under this section any 42807
proprietary information included in the proposal. The person with 42808
whom the department contracts for that purpose shall be the person 42809
the advisory council selects. 42810

Sec. 5111.111. As used in this section, "home and 42811
community-based services" means services provided pursuant to a 42812
waiver under section 1915 of the "Social Security Act," 49 Stat. 42813
620 (1935), 42 U.S.C.A. 1396n, as amended. 42814

The department of job and family services may place a lien 42815
against the property of a medical assistance recipient or 42816
recipient's spouse, other than a recipient or spouse of a 42817
recipient of home and community-based services, that the 42818
department may recover as part of the program instituted under 42819
section 5111.11 of the Revised Code. When medical assistance is 42820
paid on behalf of any person in circumstances under which federal 42821
law and regulations and this section permit the imposition of a 42822
lien, the director of job and family services or a person 42823
designated by the director may sign a certificate to the effect. 42824
The county department of job and family services shall file for 42825
recording and indexing the certificate, or a certified copy, in 42826
the real estate mortgage records in the office of the county 42827
recorder in every county in which real property of the recipient 42828
or spouse is situated. From the time of filing the certificate in 42829

the office of the county recorder, the lien attaches to all real 42830
property of the recipient or spouse described therein for all 42831
amounts of aid which are paid or which thereafter are paid, and 42832
shall remain a lien until satisfied. 42833

Upon filing the certificate in the office of the recorder, 42834
all persons are charged with notice of the lien and the rights of 42835
the department of job and family services thereunder. 42836

The county recorder shall keep a record of every certificate 42837
filed showing its date, the time of filing, the name and residence 42838
of the recipient or spouse, and any release, waivers, or 42839
satisfaction of the lien. 42840

The priority of the lien shall be established in accordance 42841
with state and federal law. 42842

The department may waive the priority of its lien to provide 42843
for the costs of the last illness as determined by the department, 42844
administration, attorney fees, administrator fees, a sum for the 42845
payment of the costs of burial, which shall be computed by 42846
deducting from five hundred dollars whatever amount is available 42847
for the same purpose from all other sources, and a similar sum for 42848
the spouse of the decedent. 42849

Sec. 5111.16. (A) As part of the medicaid program, the 42850
department of job and family services shall establish a care 42851
management system. The department shall submit, if necessary, 42852
applications to the United States department of health and human 42853
services for waivers of federal medicaid requirements that would 42854
otherwise be violated in the implementation of the system. 42855

The department shall implement the care management system in 42856
some or all counties and shall designate the medicaid recipients 42857
who are required or permitted to participate in the system. In the 42858
case of individuals who receive medicaid on the basis of being 42859

aged, blind, or disabled, as specified in division (A)(2) of 42860
section 5111.01 of the Revised Code, all of the following apply: 42861

(1) Not later than July 1, 2004, the department shall 42862
designate a portion of the individuals for participation in the 42863
care management system. 42864

(2) Individuals shall not be designated for participation 42865
unless they reside in a county in which individuals who receive 42866
medicaid on another basis have been designated for participation. 42867

(3) If, pursuant to division (B)(2) of this section, the 42868
department requires or permits the individuals to obtain health 42869
care services through managed care organizations, the department 42870
shall select the managed care organizations to be used by the 42871
individuals through a request for proposals process. The 42872
department shall issue its initial request for proposals not later 42873
than December 31, 2003. 42874

(B) Under the care management system, the department may do 42875
both of the following: 42876

(1) Require or permit participants in the system to obtain 42877
health care services from providers designated by the department; 42878

(2) Require or permit participants in the system to obtain 42879
health care services through managed care organizations under 42880
contract with the department pursuant to section 5111.17 of the 42881
Revised Code. 42882

(C) The director of job and family services may adopt rules 42883
in accordance with Chapter 119. of the Revised Code to implement 42884
this section. 42885

Sec. 5111.17. ~~(A) On receipt of a waiver from the United~~ 42886
~~States department of health and human services of any federal~~ 42887
~~requirement that would otherwise be violated, the~~ The department 42888
of job and family services may ~~establish in some or all counties a~~ 42889

~~managed care system under which designated recipients of medical assistance are required to obtain health care services from providers designated by the department.~~ 42890
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~~(B) The department may enter into contracts with managed care organizations to authorize, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients participating in a who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under this section 5111.16 of the Revised Code.~~ 42893
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~~(C) For the purpose of determining the amount the department pays hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization under contract with the department to provide hospital services to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the department.~~ 42901
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~~(D)(B) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~ 42914
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Sec. 5111.171. (A) The department of job and family services may provide financial incentive awards to managed care organizations ~~that~~ under contract with the department ~~under~~ pursuant to section 5111.17 of the Revised Code ~~to provide health~~ 42917
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~~care services to participating medical assistance recipients and~~ 42921
that meet or exceed performance standards specified in provider 42922
agreements or rules adopted by the department. The department may 42923
specify in a contract with a managed care organization the amounts 42924
of financial incentive awards, methodology for distributing 42925
awards, types of awards, and standards for administration by the 42926
department. 42927

(B) There is hereby created in the state treasury the health 42928
care compliance fund. The fund shall consist of all fines imposed 42929
on and collected from managed care organizations for failure to 42930
~~meet~~ meet performance standards or other requirements specified 42931
in provider agreements or rules adopted by the department. All 42932
investment earnings of the fund shall be credited to the fund. 42933
Moneys credited to the fund shall be used solely for the following 42934
purposes: 42935

(1) To reimburse managed care organizations that have paid 42936
fines for failures to meet performance standards or other 42937
requirements and that have come into compliance by meeting 42938
requirements as specified by the department; 42939

(2) To provide financial incentive awards established 42940
pursuant to division (A) of this section and specified in 42941
contracts between managed care organizations and the department. 42942

Sec. 5111.172. When contracting under section 5111.17 of the 42943
Revised Code with a managed care organization that is a health 42944
insuring corporation, the department of job and family services 42945
may require the health insuring corporation to provide coverage of 42946
prescription drugs for medicaid recipients enrolled in the health 42947
insuring corporation. In providing the required coverage, the 42948
health insuring corporation may, subject to the department's 42949
approval, use strategies for the management of drug utilization. 42950

Sec. 5111.173. The department of job and family services shall appoint a temporary manager for a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department determines that the managed care organization has repeatedly failed to meet substantive requirements specified in section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 42 C.F.R. 438 Part I. The appointment of a temporary manager does not preclude the department from imposing other sanctions available to the department against the managed care organization.

The managed care organization shall pay all costs of having the temporary manager perform the temporary manager's duties, including all costs the temporary manager incurs in performing those duties. If the temporary manager incurs costs or liabilities on behalf of the managed care organization, the managed care organization shall pay those costs and be responsible for those liabilities.

The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code.

The appointment of a temporary manager does not cause the managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to renew the managed care organization's medicaid provider agreement or the right to initiate the sale of the managed care organization or its assets.

In addition to the rules required to be adopted under this

section, the director may adopt any other rules necessary to 42982
implement this section. The rules shall be adopted in accordance 42983
with Chapter 119. of the Revised Code. 42984

Sec. 5111.174. The department of job and family services may 42985
disenroll some or all medicaid recipients enrolled in a managed 42986
care organization under contract with the department pursuant to 42987
section 5111.17 of the Revised Code if the department proposes to 42988
terminate or not to renew the contract and determines that the 42989
recipients' access to medically necessary services is jeopardized 42990
by the proposal to terminate or not to renew the contract. The 42991
disenrollment is not subject to Chapter 119. of the Revised Code, 42992
but the managed care organization may request a reconsideration of 42993
the disenrollment. Reconsiderations shall be requested and 42994
conducted in accordance with rules the director of job and family 42995
services shall adopt in accordance with Chapter 119. of the 42996
Revised Code. The request for, or conduct of, a reconsideration 42997
regarding a proposed disenrollment shall not delay the 42998
disenrollment. 42999

In addition to the rules required to be adopted under this 43000
section, the director may adopt any other rules necessary to 43001
implement this section. The rules shall be adopted in accordance 43002
with Chapter 119. of the Revised Code. 43003

Sec. 5111.175. For the purpose of determining the amount the 43004
department of job and family services pays hospitals under section 43005
5112.08 of the Revised Code and the amount of disproportionate 43006
share hospital payments paid by the medicare program established 43007
under Title XVIII of the "Social Security Act," 79 Stat. 286 43008
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 43009
under contract with the department pursuant to section 5111.17 of 43010
the Revised Code authorizing the organization to provide, or 43011
arrange for the provision of, hospital services to medicaid 43012

recipients shall keep detailed records for each hospital with 43013
which it contracts about the cost to the hospital of providing the 43014
services, payments made by the organization to the hospital for 43015
the services, utilization of hospital services by medicaid 43016
recipients enrolled in the organization, and other utilization 43017
data required by the department. 43018

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 43019
of the Revised Code: 43020

(A) "Allowable costs" are those costs determined by the 43021
department of job and family services to be reasonable and do not 43022
include fines paid under sections 5111.35 to 5111.61 and section 43023
5111.99 of the Revised Code. 43024

(B) "Capital costs" means costs of ownership and nonextensive 43025
renovation. 43026

(1) "Cost of ownership" means the actual expense incurred for 43027
all of the following: 43028

(a) Depreciation and interest on any capital assets that cost 43029
five hundred dollars or more per item, including the following: 43030

(i) Buildings; 43031

(ii) Building improvements that are not approved as 43032
nonextensive renovations under section 5111.25 or 5111.251 of the 43033
Revised Code; 43034

(iii) Equipment; 43035

(iv) Extensive renovations; 43036

(v) Transportation equipment. 43037

(b) Amortization and interest on land improvements and 43038
leasehold improvements; 43039

(c) Amortization of financing costs; 43040

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

The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.

(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(D) "Case-mix score" means the measure determined under section 5111.231 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider

obtained licensure. 43072

(2) If a facility adds nursing home beds or residential 43073
facility beds or extensively renovates all or part of the facility 43074
after its original date of licensure, it will have a different 43075
date of licensure for the additional beds or extensively renovated 43076
portion of the facility, unless the beds are added in a space that 43077
was constructed at the same time as the previously licensed beds 43078
but was not licensed under Chapter 3721. or section 5123.19 of the 43079
Revised Code at that time. 43080

(F) "Desk-reviewed" means that costs as reported on a cost 43081
report submitted under section 5111.26 of the Revised Code have 43082
been subjected to a desk review under division (A) of section 43083
5111.27 of the Revised Code and preliminarily determined to be 43084
allowable costs. 43085

(G) "Direct care costs" means all of the following: 43086

(1)(a) Costs for registered nurses, licensed practical 43087
nurses, and nurse aides employed by the facility; 43088

(b) Costs for direct care staff, administrative nursing 43089
staff, medical directors, social services staff, activities staff, 43090
psychologists and psychology assistants, social workers and 43091
counselors, habilitation staff, qualified mental retardation 43092
professionals, program directors, respiratory therapists, 43093
habilitation supervisors, and except as provided in division 43094
(G)(2) of this section, other persons holding degrees qualifying 43095
them to provide therapy; 43096

(c) Costs of purchased nursing services; 43097

(d) Costs of quality assurance; 43098

(e) Costs of training and staff development, employee 43099
benefits, payroll taxes, and workers' compensation premiums or 43100
costs for self-insurance claims and related costs as specified in 43101

rules adopted by the director of job and family services in	43102
accordance with Chapter 119. of the Revised Code, for personnel	43103
listed in divisions (G)(1)(a), (b), and (d) of this section;	43104
(f) Costs of consulting and management fees related to direct	43105
care;	43106
(g) Allocated direct care home office costs.	43107
(2) In addition to the costs specified in division (G)(1) of	43108
this section, for intermediate care facilities for the mentally	43109
retarded only, direct care costs include both of the following:	43110
(a) Costs for physical therapists and physical therapy	43111
assistants, occupational therapists and occupational therapy	43112
assistants, speech therapists, and audiologists;	43113
(b) Costs of training and staff development, employee	43114
benefits, payroll taxes, and workers' compensation premiums or	43115
costs for self-insurance claims and related costs as specified in	43116
rules adopted by the director of job and family services in	43117
accordance with Chapter 119. of the Revised Code, for personnel	43118
listed in division (G)(2)(a) of this section.	43119
(3) Costs of other direct-care resources that are specified	43120
as direct care costs in rules adopted by the director of job and	43121
family services in accordance with Chapter 119. of the Revised	43122
Code.	43123
(H) "Fiscal year" means the fiscal year of this state, as	43124
specified in section 9.34 of the Revised Code.	43125
(I) "Indirect care costs" means all reasonable costs other	43126
than direct care costs, other protected costs, or capital costs.	43127
"Indirect care costs" includes but is not limited to costs of	43128
habilitation supplies, pharmacy consultants, medical and	43129
habilitation records, program supplies, incontinence supplies,	43130
food, enterals, dietary supplies and personnel, laundry,	43131

housekeeping, security, administration, liability insurance, 43132
bookkeeping, purchasing department, human resources, 43133
communications, travel, dues, license fees, subscriptions, home 43134
office costs not otherwise allocated, legal services, accounting 43135
services, minor equipment, maintenance and repairs, help-wanted 43136
advertising, informational advertising, ~~consumer satisfaction~~ 43137
~~survey fees paid under section 173.55 of the Revised Code,~~ 43138
start-up costs, organizational expenses, other interest, property 43139
insurance, employee training and staff development, employee 43140
benefits, payroll taxes, and workers' compensation premiums or 43141
costs for self-insurance claims and related costs as specified in 43142
rules adopted by the director of job and family services in 43143
accordance with Chapter 119. of the Revised Code, for personnel 43144
listed in this division. Notwithstanding division (B)(1) of this 43145
section, "indirect care costs" also means the cost of equipment, 43146
including vehicles, acquired by operating lease executed before 43147
December 1, 1992, if the costs are reported as administrative and 43148
general costs on the facility's cost report for the cost reporting 43149
period ending December 31, 1992. 43150

(J) "Inpatient days" means all days during which a resident, 43151
regardless of payment source, occupies a bed in a nursing facility 43152
or intermediate care facility for the mentally retarded that is 43153
included in the facility's certified capacity under Title XIX of 43154
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 43155
as amended. Therapeutic or hospital leave days for which payment 43156
is made under section 5111.33 of the Revised Code are considered 43157
inpatient days proportionate to the percentage of the facility's 43158
per resident per day rate paid for those days. 43159

(K) "Intermediate care facility for the mentally retarded" 43160
means an intermediate care facility for the mentally retarded 43161
certified as in compliance with applicable standards for the 43162
medical assistance program by the director of health in accordance 43163

with Title XIX of the "Social Security Act." 43164

(L) "Maintenance and repair expenses" means, except as 43165
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 43166
are necessary and proper to maintain an asset in a normally 43167
efficient working condition and that do not extend the useful life 43168
of the asset two years or more. "Maintenance and repair expenses" 43169
includes but is not limited to the cost of ordinary repairs such 43170
as painting and wallpapering. 43171

(M) "Nursing facility" means a facility, or a distinct part 43172
of a facility, that is certified as a nursing facility by the 43173
director of health in accordance with Title XIX of the "Social 43174
Security Act," and is not an intermediate care facility for the 43175
mentally retarded. "Nursing facility" includes a facility, or a 43176
distinct part of a facility, that is certified as a nursing 43177
facility by the director of health in accordance with Title XIX of 43178
the "Social Security Act," and is certified as a skilled nursing 43179
facility by the director in accordance with Title XVIII of the 43180
"Social Security Act." 43181

(N) "Operator" means the person or government entity 43182
responsible for the daily operating and management decisions for a 43183
nursing facility or intermediate care facility for the mentally 43184
retarded. 43185

(O) "Other protected costs" means costs for medical supplies; 43186
real estate, franchise, and property taxes; natural gas, fuel oil, 43187
water, electricity, sewage, and refuse and hazardous medical waste 43188
collection; allocated other protected home office costs; and any 43189
additional costs defined as other protected costs in rules adopted 43190
by the director of job and family services in accordance with 43191
Chapter 119. of the Revised Code. 43192

~~(O)~~(P) "Owner" means any person or government entity that has 43193
at least five per cent ownership or interest, either directly, 43194

indirectly, or in any combination, in any of the following 43195
regarding a nursing facility or intermediate care facility for the 43196
mentally retarded: 43197

(a) The land on which the facility is located; 43198

(b) The structure in which the facility is located; 43199

(c) Any mortgage, contract for deed, or other obligation 43200
secured in whole or in part by the land or structure on or in 43201
which the facility is located; 43202

(d) Any lease or sublease of the land or structure on or in 43203
which the facility is located. 43204

(2) "Owner" does not mean a holder of a debenture or bond 43205
related to the nursing facility or intermediate care facility for 43206
the mentally retarded and purchased at public issue or a regulated 43207
lender that has made a loan related to the facility unless the 43208
holder or lender operates the facility directly or through a 43209
subsidiary. 43210

~~(P)~~(Q) "Patient" includes "resident." 43211

~~(Q)~~(R) Except as provided in divisions ~~(Q)~~(R)(1) and (2) of 43212
this section, "per diem" means a nursing facility's or 43213
intermediate care facility for the mentally retarded's actual, 43214
allowable costs in a given cost center in a cost reporting period, 43215
divided by the facility's inpatient days for that cost reporting 43216
period. 43217

(1) When calculating indirect care costs for the purpose of 43218
establishing rates under section 5111.24 or 5111.241 of the 43219
Revised Code, "per diem" means a facility's actual, allowable 43220
indirect care costs in a cost reporting period divided by the 43221
greater of the facility's inpatient days for that period or the 43222
number of inpatient days the facility would have had during that 43223
period if its occupancy rate had been eighty-five per cent. 43224

(2) When calculating capital costs for the purpose of 43225
establishing rates under section 5111.25 or 5111.251 of the 43226
Revised Code, "per diem" means a facility's actual, allowable 43227
capital costs in a cost reporting period divided by the greater of 43228
the facility's inpatient days for that period or the number of 43229
inpatient days the facility would have had during that period if 43230
its occupancy rate had been ninety-five per cent. 43231

~~(R)~~(S) "Provider" means a person or government entity that 43232
operates a nursing facility or intermediate care facility for the 43233
mentally retarded under a provider agreement. 43234

~~(S)~~(T) "Provider agreement" means a contract between the 43235
department of job and family services and a nursing facility or 43236
intermediate care facility for the mentally retarded for the 43237
provision of nursing facility services or intermediate care 43238
facility services for the mentally retarded under the medical 43239
assistance program. 43240

~~(T)~~(U) "Purchased nursing services" means services that are 43241
provided in a nursing facility by registered nurses, licensed 43242
practical nurses, or nurse aides who are not employees of the 43243
facility. 43244

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 43245
is appropriate and helpful to develop and maintain the operation 43246
of patient care facilities and activities, including normal 43247
standby costs, and that does not exceed what a prudent buyer pays 43248
for a given item or services. Reasonable costs may vary from 43249
provider to provider and from time to time for the same provider. 43250

~~(V)~~(W) "Related party" means an individual or organization 43251
that, to a significant extent, has common ownership with, is 43252
associated or affiliated with, has control of, or is controlled 43253
by, the provider. 43254

(1) An individual who is a relative of an owner is a related 43255

party. 43256

(2) Common ownership exists when an individual or individuals 43257
possess significant ownership or equity in both the provider and 43258
the other organization. Significant ownership or equity exists 43259
when an individual or individuals possess five per cent ownership 43260
or equity in both the provider and a supplier. Significant 43261
ownership or equity is presumed to exist when an individual or 43262
individuals possess ten per cent ownership or equity in both the 43263
provider and another organization from which the provider 43264
purchases or leases real property. 43265

(3) Control exists when an individual or organization has the 43266
power, directly or indirectly, to significantly influence or 43267
direct the actions or policies of an organization. 43268

(4) An individual or organization that supplies goods or 43269
services to a provider shall not be considered a related party if 43270
all of the following conditions are met: 43271

(a) The supplier is a separate bona fide organization. 43272

(b) A substantial part of the supplier's business activity of 43273
the type carried on with the provider is transacted with others 43274
than the provider and there is an open, competitive market for the 43275
types of goods or services the supplier furnishes. 43276

(c) The types of goods or services are commonly obtained by 43277
other nursing facilities or intermediate care facilities for the 43278
mentally retarded from outside organizations and are not a basic 43279
element of patient care ordinarily furnished directly to patients 43280
by the facilities. 43281

(d) The charge to the provider is in line with the charge for 43282
the goods or services in the open market and no more than the 43283
charge made under comparable circumstances to others by the 43284
supplier. 43285

(W) <u>(X)</u> "Relative of owner" means an individual who is related	43286
to an owner of a nursing facility or intermediate care facility	43287
for the mentally retarded by one of the following relationships:	43288
(1) Spouse;	43289
(2) Natural parent, child, or sibling;	43290
(3) Adopted parent, child, or sibling;	43291
(4) Step-parent, step-child, step-brother, or step-sister;	43292
(5) Father-in-law, mother-in-law, son-in-law,	43293
daughter-in-law, brother-in-law, or sister-in-law;	43294
(6) Grandparent or grandchild;	43295
(7) Foster caregiver, foster child, foster brother, or foster	43296
sister.	43297
(X) <u>(Y)</u> "Renovation" and "extensive renovation" mean:	43298
(1) Any betterment, improvement, or restoration of a nursing	43299
facility or intermediate care facility for the mentally retarded	43300
started before July 1, 1993, that meets the definition of a	43301
renovation or extensive renovation established in rules adopted by	43302
the director of job and family services in effect on December 22,	43303
1992.	43304
(2) In the case of betterments, improvements, and	43305
restorations of nursing facilities and intermediate care	43306
facilities for the mentally retarded started on or after July 1,	43307
1993:	43308
(a) "Renovation" means the betterment, improvement, or	43309
restoration of a nursing facility or intermediate care facility	43310
for the mentally retarded beyond its current functional capacity	43311
through a structural change that costs at least five hundred	43312
dollars per bed. A renovation may include betterment, improvement,	43313
restoration, or replacement of assets that are affixed to the	43314

building and have a useful life of at least five years. A 43315
renovation may include costs that otherwise would be considered 43316
maintenance and repair expenses if they are an integral part of 43317
the structural change that makes up the renovation project. 43318
"Renovation" does not mean construction of additional space for 43319
beds that will be added to a facility's licensed or certified 43320
capacity. 43321

(b) "Extensive renovation" means a renovation that costs more 43322
than sixty-five per cent and no more than eighty-five per cent of 43323
the cost of constructing a new bed and that extends the useful 43324
life of the assets for at least ten years. 43325

For the purposes of division ~~(X)~~(Y)(2) of this section, the 43326
cost of constructing a new bed shall be considered to be forty 43327
thousand dollars, adjusted for the estimated rate of inflation 43328
from January 1, 1993, to the end of the calendar year during which 43329
the renovation is completed, using the consumer price index for 43330
shelter costs for all urban consumers for the north central 43331
region, as published by the United States bureau of labor 43332
statistics. 43333

The department of job and family services may treat a 43334
renovation that costs more than eighty-five per cent of the cost 43335
of constructing new beds as an extensive renovation if the 43336
department determines that the renovation is more prudent than 43337
construction of new beds. 43338

Sec. 5111.206. (A) As used in this section, "nursing 43339
facility" has the same meaning as in section 5111.20 of the 43340
Revised Code. 43341

(B) To the extent funds are available, the director of job 43342
and family services may establish the Ohio access success project 43343
to help medicaid recipients make the transition from residing in a 43344
nursing facility to residing in a community setting. The program 43345

may be established as a separate non-medicaid program or 43346
integrated into a new or existing program of Medicaid home and 43347
community-based services program based on a waiver approved by the 43348
federal centers for medicare and medicaid services. The department 43349
may limit the number of program participants. 43350

To be eligible for benefits under the project, a medicaid 43351
recipient must satisfy all of the following requirements: 43352

(1) Be a recipient of medicaid-funded nursing facility care, 43353
at the time of applying for the benefits; 43354

(2) Have resided continuously in a nursing facility since 43355
January 1, 2002; 43356

(3) Need the level of care provided by nursing facilities; 43357

(4) For participation in a non-medicaid program, receive 43358
services to remain in the community with a projected cost not 43359
exceeding eighty per cent of the average monthly medicaid cost of 43360
a medicaid recipient in a nursing facility; 43361

(5) For participation in a program established as part of a 43362
home and community-based services program that is based on a 43363
waiver, meet waiver enrollment criteria. 43364

(C) If the director establishes the Ohio access success 43365
project, the benefits provided under the project may include 43366
payment of all of the following: 43367

(1) The first month's rent in a community setting; 43368

(2) Rental deposits; 43369

(3) Utility deposits; 43370

(4) Moving expenses; 43371

(5) Other expenses not covered by the medicaid program that 43372
facilitate a medicaid recipient's move from a nursing facility to 43373
a community setting. 43374

(D) If the project is established as a non-medicaid program, 43375
no participant may receive more than two thousand dollars worth of 43376
benefits under the project. 43377

(E) The director may submit a request to the United States 43378
secretary of health and human services pursuant to section 1915 of 43379
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 43380
as amended, to create a medicaid home and community-based services 43381
waiver programs to serve individuals who meet the criteria for 43382
participation in the Ohio access success project. The director may 43383
adopt rules under Chapter 119. of the Revised Code for the 43384
administration and operation of the program. 43385

Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 43386
5111.012, ~~and~~ 5111.02, and 5111.6810 of the Revised Code, the 43387
department of job and family services shall pay, as provided in 43388
sections 5111.20 to 5111.32 of the Revised Code, the reasonable 43389
costs of services provided to an eligible medicaid recipient by an 43390
eligible nursing facility or intermediate care facility for the 43391
mentally retarded. 43392

In order to be eligible for medical assistance payments, an 43393
operator of a nursing facility or intermediate care facility for 43394
the mentally retarded shall do all of the following: 43395

(1) Enter into a provider agreement with the department as 43396
provided in section 5111.22, 5111.251, or 5111.252 of the Revised 43397
Code; 43398

(2) Apply for and maintain a valid license to operate if so 43399
required by law; 43400

(3) Comply with all applicable state and federal laws and 43401
rules. 43402

(B) ~~A~~ An operator of a nursing facility that elects to obtain 43403
and maintain eligibility for payments under the ~~medicare~~ medicaid 43404

program established by Title XVIII of the "Social Security Act," 43405
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may shall qualify 43406
all ~~or part of the facility of the facility's~~ medicaid-certified 43407
beds in the medicare program established by Title XVIII of the 43408
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The 43409
director of job and family services may adopt rules in accordance 43410
with Chapter 119. of the Revised Code to establish the time frame 43411
in which a nursing facility must comply with this requirement. 43412

Sec. 5111.22. A provider agreement between the department of 43413
job and family services and an operator of a nursing facility or 43414
intermediate care facility for the mentally retarded shall contain 43415
the following provisions: 43416

(A) The department agrees to+ 43417

~~(1) Make~~ make payments to the nursing facility or 43418
intermediate care facility for the mentally retarded for patients 43419
eligible for services under the medical assistance program as 43420
provided in sections 5111.20 to 5111.32 of the Revised Code. No 43421
payment shall be made for the day a recipient is discharged from 43422
the facility. 43423

~~(2) Provide copies of rules governing the facility's~~ 43424
~~participation as a provider in the medical assistance program.~~ 43425
~~Whenever the director of job and family services files a proposed~~ 43426
~~rule or proposed rule in revised form under division (D) of~~ 43427
~~section 111.15 or division (B) of section 119.03 of the Revised~~ 43428
~~Code, the department shall provide the facility with one copy of~~ 43429
~~such rule. In the case of a rescission or proposed rescission of a~~ 43430
~~rule, the department may provide the rule number and title instead~~ 43431
~~of the rules rescinded or proposed to be rescinded.~~ 43432

(B) The ~~provider~~ operator agrees to: 43433

(1) Maintain eligibility as provided in section 5111.21 of 43434

the Revised Code; 43435

(2) Keep records relating to a cost reporting period for the 43436
greater of seven years after the cost report is filed or, if the 43437
department issues an audit report in accordance with division (B) 43438
of section 5111.27 of the Revised Code, six years after all appeal 43439
rights relating to the audit report are exhausted; 43440

(3) File reports as required by the department; 43441

(4) Open all records relating to the costs of its services 43442
for inspection and audit by the department; 43443

(5) Open its premises for inspection by the department, the 43444
department of health, and any other state or local authority 43445
having authority to inspect; 43446

(6) Supply to the department such information as it requires 43447
concerning the facility's services to patients who are or are 43448
eligible to be medicaid recipients; 43449

(7) Comply with section 5111.31 of the Revised Code. 43450

The provider agreement may contain other provisions that are 43451
consistent with law and considered necessary by the department. 43452

A provider agreement shall be effective for no longer than 43453
twelve months, except that if federal statute or regulations 43454
authorize a longer term, it may be effective for a longer term so 43455
authorized. A provider agreement may be renewed only if the 43456
facility is certified by the department of health for 43457
participation in the medicaid program. 43458

The department of job and family services, in accordance with 43459
rules adopted by the director pursuant to Chapter 119. of the 43460
Revised Code, may elect not to enter into, not to renew, or to 43461
terminate a provider agreement when the department determines that 43462
such an agreement would not be in the best interests of the 43463
recipients or of the state. 43464

Sec. 5111.222. An operator of a nursing facility or 43465
intermediate care facility for the mentally retarded may enter 43466
into provider agreements for more than one nursing facility or 43467
intermediate care facility for the mentally retarded. 43468

Sec. 5111.23. (A) The department of job and family services 43469
shall pay each eligible nursing facility and intermediate care 43470
facility for the mentally retarded a per resident per day rate for 43471
direct care costs established prospectively for each facility. The 43472
department shall establish each facility's rate for direct care 43473
costs quarterly. 43474

(B) Each facility's rate for direct care costs shall be based 43475
on the facility's cost per case-mix unit, subject to the maximum 43476
costs per case-mix unit established under division (B)(2) of this 43477
section, from the calendar year preceding the fiscal year in which 43478
the rate is paid. To determine the rate, the department shall do 43479
all of the following: 43480

(1) Determine each facility's cost per case-mix unit for the 43481
calendar year preceding the fiscal year in which the rate will be 43482
paid by dividing the facility's desk-reviewed, actual, allowable, 43483
per diem direct care costs for that year by its average case-mix 43484
score determined under section 5111.231 of the Revised Code for 43485
the same calendar year. 43486

(2)(a) Set the maximum cost per case-mix unit for each peer 43487
group of nursing facilities specified in rules adopted under 43488
division (E) of this section at a percentage above the cost per 43489
case-mix unit of the facility in the group that has the group's 43490
median medicaid inpatient day for the calendar year preceding the 43491
fiscal year in which the rate will be paid, as calculated under 43492
division (B)(1) of this section, ~~that is no.~~ For fiscal year 2004, 43493
that percentage shall not be less than one hundred eighteen per 43494

cent of the cost per case-mix unit of that facility. For fiscal 43495
year 2005, that percentage shall not be less than one hundred 43496
fifteen per cent of the cost per case-mix unit of that facility. 43497
For other fiscal years, that percentage shall not be less than the 43498
percentage calculated under division (D)(1) of this section. 43499

(b) Set the maximum cost per case-mix unit for each peer 43500
group of intermediate care facilities for the mentally retarded 43501
with more than eight beds specified in rules adopted under 43502
division (E) of this section at a percentage above the cost per 43503
case-mix unit of the facility in the group that has the group's 43504
median medicaid inpatient day for the calendar year preceding the 43505
fiscal year in which the rate will be paid, as calculated under 43506
division (B)(1) of this section, that is no less than the 43507
percentage calculated under division (D)(2) of this section. 43508

(c) Set the maximum cost per case-mix unit for each peer 43509
group of intermediate care facilities for the mentally retarded 43510
with eight or fewer beds specified in rules adopted under division 43511
(E) of this section at a percentage above the cost per case-mix 43512
unit of the facility in the group that has the group's median 43513
medicaid inpatient day for the calendar year preceding the fiscal 43514
year in which the rate will be paid, as calculated under division 43515
(B)(1) of this section, that is no less than the percentage 43516
calculated under division (D)(3) of this section. 43517

(d) In calculating the maximum cost per case-mix unit under 43518
divisions (B)(2)(a) to (c) of this section for each peer group, 43519
the department shall exclude from its calculations the cost per 43520
case-mix unit of any facility in the group that participated in 43521
the medical assistance program under the same operator for less 43522
than twelve months during the calendar year preceding the fiscal 43523
year in which the rate will be paid. 43524

(3) Estimate the rate of inflation for the eighteen-month 43525
period beginning on the first day of July of the calendar year 43526

preceding the fiscal year in which the rate will be paid and 43527
ending on the thirty-first day of December of the fiscal year in 43528
which the rate will be paid, using the employment cost index for 43529
total compensation, health services component, published by the 43530
United States bureau of labor statistics. If the estimated 43531
inflation rate for the eighteen-month period is different from the 43532
actual inflation rate for that period, as measured using the same 43533
index, the difference shall be added to or subtracted from the 43534
inflation rate estimated under division (B)(3) of this section for 43535
the following fiscal year. 43536

(4) The department shall not recalculate a maximum cost per 43537
case-mix unit under division (B)(2) of this section or a 43538
percentage under division (D) of this section based on additional 43539
information that it receives after the maximum costs per case-mix 43540
unit or percentages are set. The department shall recalculate a 43541
maximum cost per case-mix units or percentage only if it made an 43542
error in computing the maximum cost per case-mix unit or 43543
percentage based on information available at the time of the 43544
original calculation. 43545

(C) Each facility's rate for direct care costs shall be 43546
determined as follows for each calendar quarter within a fiscal 43547
year: 43548

(1) Multiply the lesser of the following by the facility's 43549
average case-mix score determined under section 5111.231 of the 43550
Revised Code for the calendar quarter that preceded the 43551
immediately preceding calendar quarter: 43552

(a) The facility's cost per case-mix unit for the calendar 43553
year preceding the fiscal year in which the rate will be paid, as 43554
determined under division (B)(1) of this section; 43555

(b) The maximum cost per case-mix unit established for the 43556
fiscal year in which the rate will be paid for the facility's peer 43557

group under division (B)(2) of this section; 43558

(2) Adjust the product determined under division (C)(1) of 43559
this section by the inflation rate estimated under division (B)(3) 43560
of this section. 43561

(D)(1) The department shall calculate the percentage above 43562
the median cost per case-mix unit determined under division (B)(1) 43563
of this section for the facility that has the median medicaid 43564
inpatient day for calendar year 1992 for all nursing facilities 43565
that would result in payment of all desk-reviewed, actual, 43566
allowable direct care costs for eighty-five per cent of the 43567
medicaid inpatient days for nursing facilities for calendar year 43568
1992. 43569

(2) The department shall calculate the percentage above the 43570
median cost per case-mix unit determined under division (B)(1) of 43571
this section for the facility that has the median medicaid 43572
inpatient day for calendar year 1992 for all intermediate care 43573
facilities for the mentally retarded with more than eight beds 43574
that would result in payment of all desk-reviewed, actual, 43575
allowable direct care costs for eighty and one-half per cent of 43576
the medicaid inpatient days for such facilities for calendar year 43577
1992. 43578

(3) The department shall calculate the percentage above the 43579
median cost per case-mix unit determined under division (B)(1) of 43580
this section for the facility that has the median medicaid 43581
inpatient day for calendar year 1992 for all intermediate care 43582
facilities for the mentally retarded with eight or fewer beds that 43583
would result in payment of all desk-reviewed, actual, allowable 43584
direct care costs for eighty and one-half per cent of the medicaid 43585
inpatient days for such facilities for calendar year 1992. 43586

(E) The director of job and family services shall adopt rules 43587
in accordance with Chapter 119. of the Revised Code that specify 43588

peer groups of nursing facilities, intermediate care facilities 43589
for the mentally retarded with more than eight beds, and 43590
intermediate care facilities for the mentally retarded with eight 43591
or fewer beds, based on findings of significant per diem direct 43592
care cost differences due to geography and facility bed-size. The 43593
rules also may specify peer groups based on findings of 43594
significant per diem direct care cost differences due to other 43595
factors which may include, in the case of intermediate care 43596
facilities for the mentally retarded, case-mix. 43597

(F) The department, in accordance with division (C) of 43598
section 5111.231 of the Revised Code and rules adopted under 43599
division (D) of that section, may assign case-mix scores or costs 43600
per case-mix unit if a facility fails to submit assessment 43601
information necessary to calculate its case-mix score in 43602
accordance with that section. 43603

Sec. 5111.24. (A) The department of job and family services 43604
shall pay each eligible nursing facility a per resident per day 43605
rate for indirect care costs established prospectively each fiscal 43606
year for each facility. The rate for each nursing facility shall 43607
be the sum of the following, but shall not exceed the maximum rate 43608
established for the facility's peer group under division (B) of 43609
this section: 43610

(1) The facility's desk-reviewed, actual, allowable, per diem 43611
indirect care costs from the calendar year preceding the fiscal 43612
year in which the rate will be paid, adjusted for the inflation 43613
rate estimated under division (C)(1) of this section; 43614

(2) An efficiency incentive in the following amount: 43615

(a) For fiscal years ending in even-numbered calendar years, 43616
the difference between the maximum rate established for the 43617
facility's peer group under division (B) of this section and the 43618
median, actual, allowable, per diem indirect care costs for the 43619

facility's peer group; 43620

(b) For fiscal years ending in odd-numbered calendar years, 43621
the amount calculated for the preceding fiscal year under division 43622
(A)(2)(a) of this section. 43623

(B) The maximum rate for indirect care costs for each peer 43624
group of nursing facilities specified in rules adopted under 43625
division (D) of this section shall be determined as follows: 43626

(1) For fiscal years that end in even-numbered calendar years 43627
and fiscal year 2005, the maximum rate for each peer group shall 43628
be the rate that is ~~twelve and one-half~~ a per cent above the 43629
desk-reviewed, actual, allowable, per diem indirect care cost of 43630
the facility in the peer group that has the group's median 43631
medicaid inpatient day for the calendar year preceding the fiscal 43632
year in which the rate will be paid, adjusted by the inflation 43633
rate estimated under division (C)(1) of this section. For fiscal 43634
year 2004, the per cent shall be eleven. For fiscal year 2005, the 43635
per cent shall be nine. For other fiscal years, the per cent shall 43636
be twelve and one-half. In determining the maximum rate for each 43637
peer group, the department shall exclude from its calculations 43638
both of the following: 43639

(a) Facilities in the group that participated in the medical 43640
assistance program under the same operator for less than twelve 43641
months in the calendar year preceding the fiscal year in which the 43642
rate will be paid; 43643

(b) Facilities in the group whose indirect care costs are 43644
more than three standard deviations from the mean desk-reviewed, 43645
actual, allowable, per diem indirect care cost for all nursing 43646
facilities for the calendar year preceding the fiscal year in 43647
which the rate will be paid. 43648

(2) For fiscal years that end in odd-numbered calendar years, 43649
other than fiscal year 2005, the maximum rate for each peer group 43650

is the group's maximum rate for the previous fiscal year, adjusted 43651
for the inflation rate estimated under division (C)(2) of this 43652
section. 43653

(3) The department shall not recalculate a maximum rate for 43654
indirect care costs under division (B)(1) or (2) of this section 43655
based on additional information that it receives after the maximum 43656
rate is set. The department shall recalculate the maximum rate for 43657
indirect care costs only if it made an error in computing the 43658
maximum rate based on the information available at the time of the 43659
original calculation. 43660

(C)(1) When adjusting rates for inflation under divisions (A) 43661
and (B)(1) of this section, the department shall estimate the rate 43662
of inflation for the eighteen-month period beginning on the first 43663
day of July of the calendar year preceding the fiscal year in 43664
which the rate will be paid and ending on the thirty-first day of 43665
December of the fiscal year in which the rate will be paid, using 43666
the consumer price index for all items for all urban consumers for 43667
the north central region, published by the United States bureau of 43668
labor statistics. 43669

(2) When adjusting rates for inflation under division (B)(2) 43670
of this section, the department shall estimate the rate of 43671
inflation for the twelve-month period beginning on the first day 43672
of January preceding the fiscal year in which the rate will be 43673
paid and ending on the thirty-first day of December of the fiscal 43674
year in which the rate will be paid, using the consumer price 43675
index for all items for all urban consumers for the north central 43676
region, published by the United States bureau of labor statistics. 43677

(3) If an inflation rate estimated under division (C)(1) or 43678
(2) of this section is different from the actual inflation rate 43679
for the relevant time period, as measured using the same index, 43680
the difference shall be added to or subtracted from the inflation 43681
rate estimated for the same purpose pursuant to this division for 43682

the following fiscal year. 43683

(D) The director of job and family services shall adopt rules 43684
in accordance with Chapter 119. of the Revised Code that specify 43685
peer groups of nursing facilities based on findings of significant 43686
per diem indirect care cost differences due to geography and 43687
facility bed-size. The rules also may specify peer groups based on 43688
findings of significant per diem indirect care cost differences 43689
due to other factors. 43690

Sec. 5111.25. (A) The department of job and family services 43691
shall pay each eligible nursing facility a per resident per day 43692
rate for its reasonable capital costs established prospectively 43693
each fiscal year for each facility. Except as otherwise provided 43694
in sections 5111.20 to 5111.32 of the Revised Code, the rate shall 43695
be based on the facility's capital costs for the calendar year 43696
preceding the fiscal year in which the rate will be paid. The rate 43697
shall equal the sum of divisions (A)(1) to (3) of this section: 43698

(1) The lesser of the following: 43699

(a) Eighty-eight and sixty-five one-hundredths per cent of 43700
the facility's desk-reviewed, actual, allowable, per diem cost of 43701
ownership and eighty-five per cent of the facility's actual, 43702
allowable, per diem cost of nonextensive renovation determined 43703
under division (F) of this section; 43704

(b) Eighty-eight and sixty-five one-hundredths per cent of 43705
the following limitation: 43706

(i) For the fiscal year beginning July 1, 1993, sixteen 43707
dollars per resident day; 43708

(ii) For the fiscal year beginning July 1, 1994, sixteen 43709
dollars per resident day, adjusted to reflect the rate of 43710
inflation for the twelve-month period beginning July 1, 1992, and 43711
ending June 30, 1993, using the consumer price index for shelter 43712

costs for all urban consumers for the north central region, 43713
published by the United States bureau of labor statistics; 43714

(iii) For subsequent fiscal years, the limitation in effect 43715
during the previous fiscal year, adjusted to reflect the rate of 43716
inflation for the twelve-month period beginning on the first day 43717
of July for the calendar year preceding the calendar year that 43718
precedes the fiscal year and ending on the following thirtieth day 43719
of June, using the consumer price index for shelter costs for all 43720
urban consumers for the north central region, published by the 43721
United States bureau of labor statistics. 43722

(2) Any efficiency incentive determined under division (D) of 43723
this section; 43724

(3) Any amounts for return on equity determined under 43725
division (H) of this section. 43726

Buildings shall be depreciated using the straight line method 43727
over forty years or over a different period approved by the 43728
department. Components and equipment shall be depreciated using 43729
the straight-line method over a period designated in rules adopted 43730
by the director of job and family services in accordance with 43731
Chapter 119. of the Revised Code, consistent with the guidelines 43732
of the American hospital association, or over a different period 43733
approved by the department. Any rules adopted under this division 43734
that specify useful lives of buildings, components, or equipment 43735
apply only to assets acquired on or after July 1, 1993. 43736
Depreciation for costs paid or reimbursed by any government agency 43737
shall not be included in cost of ownership or renovation unless 43738
that part of the payment under sections 5111.20 to 5111.32 of the 43739
Revised Code is used to reimburse the government agency. 43740

(B) The capital cost basis of nursing facility assets shall 43741
be determined in the following manner: 43742

(1) For purposes of calculating the rate to be paid for the 43743

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:

(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.

(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.

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.

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 the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the

documentation. 43776

(2) Except as provided in division (B)(4) of this section, 43777
for purposes of calculating the rates to be paid for fiscal years 43778
beginning after June 30, 1994, for facilities with dates of 43779
licensure on or before June 30, 1993, the capital cost basis of 43780
each asset shall be equal to the desk-reviewed, actual, allowable, 43781
capital cost basis that is listed on the facility's cost report 43782
for the calendar year preceding the fiscal year during which the 43783
rate will be paid. 43784

(3) For facilities with dates of licensure after June 30, 43785
1993, the capital cost basis shall be determined in accordance 43786
with the principles of the medicare program established under 43787
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 43788
U.S.C.A. 301, as amended, except as otherwise provided in sections 43789
5111.20 to 5111.32 of the Revised Code. 43790

(4) Except as provided in division (B)(5) of this section, if 43791
a provider transfers an interest in a facility to another provider 43792
after June 30, 1993, there shall be no increase in the capital 43793
cost basis of the asset if the providers are related parties. If 43794
the providers are not related parties or if they are related 43795
parties and division (B)(5) of this section requires the 43796
adjustment of the capital cost basis under this division, the 43797
basis of the asset shall be adjusted by the lesser of the 43798
following: 43799

(a) One-half of the change in construction costs during the 43800
time that the transferor held the asset, as calculated by the 43801
department of job and family services using the "Dodge building 43802
cost indexes, northeastern and north central states," published by 43803
Marshall and Swift; 43804

(b) One-half of the change in the consumer price index for 43805
all items for all urban consumers, as published by the United 43806

States bureau of labor statistics, during the time that the 43807
transferor held the asset. 43808

(5) If a provider transfers an interest in a facility to 43809
another provider who is a related party, the capital cost basis of 43810
the asset shall be adjusted as specified in division (B)(4) of 43811
this section for a transfer to a provider that is not a related 43812
party if all of the following conditions are met: 43813

(a) The related party is a relative of owner; 43814

(b) Except as provided in division (B)(5)(c)(ii) of this 43815
section, the provider making the transfer retains no ownership 43816
interest in the facility; 43817

(c) The department of job and family services determines that 43818
the transfer is an arm's length transaction pursuant to rules the 43819
department shall adopt in accordance with Chapter 119. of the 43820
Revised Code no later than December 31, 2000. The rules shall 43821
provide that a transfer is an arm's length transaction if all of 43822
the following apply: 43823

(i) Once the transfer goes into effect, the provider that 43824
made the transfer has no direct or indirect interest in the 43825
provider that acquires the facility or the facility itself, 43826
including interest as an owner, officer, director, employee, 43827
independent contractor, or consultant, but excluding interest as a 43828
creditor. 43829

(ii) The provider that made the transfer does not reacquire 43830
an interest in the facility except through the exercise of a 43831
creditor's rights in the event of a default. If the provider 43832
reacquires an interest in the facility in this manner, the 43833
department shall treat the facility as if the transfer never 43834
occurred when the department calculates its reimbursement rates 43835
for capital costs. 43836

(iii) The transfer satisfies any other criteria specified in 43837

the rules. 43838

(d) Except in the case of hardship caused by a catastrophic 43839
event, as determined by the department, or in the case of a 43840
provider making the transfer who is at least sixty-five years of 43841
age, not less than twenty years have elapsed since, for the same 43842
facility, the capital cost basis was adjusted most recently under 43843
division (B)(5) of this section or actual, allowable cost of 43844
ownership was determined most recently under division (C)(9) of 43845
this section. 43846

(C) As used in this division, "lease expense" means lease 43847
payments in the case of an operating lease and depreciation 43848
expense and interest expense in the case of a capital lease. As 43849
used in this division, "new lease" means a lease, to a different 43850
lessee, of a nursing facility that previously was operated under a 43851
lease. 43852

(1) Subject to the limitation specified in division (A)(1) of 43853
this section, for a lease of a facility that was effective on May 43854
27, 1992, the entire lease expense is an actual, allowable cost of 43855
ownership during the term of the existing lease. The entire lease 43856
expense also is an actual, allowable cost of ownership if a lease 43857
in existence on May 27, 1992, is renewed under either of the 43858
following circumstances: 43859

(a) The renewal is pursuant to a renewal option that was in 43860
existence on May 27, 1992; 43861

(b) The renewal is for the same lease payment amount and 43862
between the same parties as the lease in existence on May 27, 43863
1992. 43864

(2) Subject to the limitation specified in division (A)(1) of 43865
this section, for a lease of a facility that was in existence but 43866
not operated under a lease on May 27, 1992, actual, allowable cost 43867
of ownership shall include the lesser of the annual lease expense 43868

or the annual depreciation expense and imputed interest expense 43869
that would be calculated at the inception of the lease using the 43870
lessor's entire historical capital asset cost basis, adjusted by 43871
the lesser of the following amounts: 43872

(a) One-half of the change in construction costs during the 43873
time the lessor held each asset until the beginning of the lease, 43874
as calculated by the department using the "Dodge building cost 43875
indexes, northeastern and north central states," published by 43876
Marshall and Swift; 43877

(b) One-half of the change in the consumer price index for 43878
all items for all urban consumers, as published by the United 43879
States bureau of labor statistics, during the time the lessor held 43880
each asset until the beginning of the lease. 43881

(3) Subject to the limitation specified in division (A)(1) of 43882
this section, for a lease of a facility with a date of licensure 43883
on or after May 27, 1992, that is initially operated under a 43884
lease, actual, allowable cost of ownership shall include the 43885
annual lease expense if there was a substantial commitment of 43886
money for construction of the facility after December 22, 1992, 43887
and before July 1, 1993. If there was not a substantial commitment 43888
of money after December 22, 1992, and before July 1, 1993, actual, 43889
allowable cost of ownership shall include the lesser of the annual 43890
lease expense or the sum of the following: 43891

(a) The annual depreciation expense that would be calculated 43892
at the inception of the lease using the lessor's entire historical 43893
capital asset cost basis; 43894

(b) The greater of the lessor's actual annual amortization of 43895
financing costs and interest expense at the inception of the lease 43896
or the imputed interest expense calculated at the inception of the 43897
lease using seventy per cent of the lessor's historical capital 43898
asset cost basis. 43899

(4) 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 was not initially operated under a lease and has been in existence for ten years, 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 entire historical capital asset cost basis of the lessor, adjusted by the lesser of the following:

(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.

(5) Subject to the limitation specified in division (A)(1) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by the lesser of the following:

(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;

(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.

(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:

(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;

(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.

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 annual amount.

(7) For any revision of a lease described in division (C)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than

execution of a new lease, the portion of actual, allowable cost of 43962
ownership attributable to the lease shall be the same as before 43963
the revision or subsequent lease. 43964

(8) Except as provided in division (C)(9) of this section, if 43965
a provider leases an interest in a facility to another provider 43966
who is a related party, the related party's actual, allowable cost 43967
of ownership shall include the lesser of the annual lease expense 43968
or the reasonable cost to the lessor. 43969

(9) If a provider leases an interest in a facility to another 43970
provider who is a related party, regardless of the date of the 43971
lease, the related party's actual, allowable cost of ownership 43972
shall include the annual lease expense, subject to the limitations 43973
specified in divisions (C)(1) to (7) of this section, if all of 43974
the following conditions are met: 43975

(a) The related party is a relative of owner; 43976

(b) If the lessor retains an ownership interest, it is, 43977
except as provided in division (C)(9)(c)(ii) of this section, in 43978
only the real property and any improvements on the real property; 43979

(c) The department of job and family services determines that 43980
the lease is an arm's length transaction pursuant to rules the 43981
department shall adopt in accordance with Chapter 119. of the 43982
Revised Code no later than December 31, 2000. The rules shall 43983
provide that a lease is an arm's length transaction if all of the 43984
following apply: 43985

(i) Once the lease goes into effect, the lessor has no direct 43986
or indirect interest in the lessee or, except as provided in 43987
division (C)(9)(b) of this section, the facility itself, including 43988
interest as an owner, officer, director, employee, independent 43989
contractor, or consultant, but excluding interest as a lessor. 43990

(ii) The lessor does not reacquire an interest in the 43991
facility except through the exercise of a lessor's rights in the 43992

event of a default. If the lessor reacquires an interest in the 43993
facility in this manner, the department shall treat the facility 43994
as if the lease never occurred when the department calculates its 43995
reimbursement rates for capital costs. 43996

(iii) The lease satisfies any other criteria specified in the 43997
rules. 43998

(d) Except in the case of hardship caused by a catastrophic 43999
event, as determined by the department, or in the case of a lessor 44000
who is at least sixty-five years of age, not less than twenty 44001
years have elapsed since, for the same facility, the capital cost 44002
basis was adjusted most recently under division (B)(5) of this 44003
section or actual, allowable cost of ownership was determined most 44004
recently under division (C)(9) of this section. 44005

(10) This division does not apply to leases of specific items 44006
of equipment. 44007

(D)(1) Subject to division (D)(2) of this section, the 44008
department shall pay each nursing facility an efficiency incentive 44009
that is equal to fifty per cent of the difference between the 44010
following: 44011

(a) Eighty-eight and sixty-five one-hundredths per cent of 44012
the facility's desk-reviewed, actual, allowable, per diem cost of 44013
ownership; 44014

(b) The applicable amount specified in division (E) of this 44015
section. 44016

(2) The efficiency incentive paid to a nursing facility shall 44017
not exceed the greater of the following: 44018

(a) The efficiency incentive the facility was paid during the 44019
fiscal year ending June 30, 1994; 44020

(b) Three dollars per resident per day, adjusted annually for 44021
rates paid beginning July 1, 1994, for the inflation rate for the 44022

twelve-month period beginning on the first day of July of the 44023
calendar year preceding the calendar year that precedes the fiscal 44024
year for which the efficiency incentive is determined and ending 44025
on the thirtieth day of the following June, using the consumer 44026
price index for shelter costs for all urban consumers for the 44027
north central region, as published by the United States bureau of 44028
labor statistics. 44029

(3) For purposes of calculating the efficiency incentive, 44030
depreciation for costs that are paid or reimbursed by any 44031
government agency shall be considered as costs of ownership, and 44032
renovation costs that are paid under division (F) of this section 44033
shall not be considered costs of ownership. 44034

(E) The following amounts shall be used to calculate 44035
efficiency incentives for nursing facilities under this section: 44036

(1) For facilities with dates of licensure prior to January 44037
1, 1958, four dollars and twenty-four cents per patient day; 44038

(2) For facilities with dates of licensure after December 31, 44039
1957, but prior to January 1, 1968: 44040

(a) Five dollars and twenty-four cents per patient day if the 44041
cost of construction was three thousand five hundred dollars or 44042
more per bed; 44043

(b) Four dollars and twenty-four cents per patient day if the 44044
cost of construction was less than three thousand five hundred 44045
dollars per bed. 44046

(3) For facilities with dates of licensure after December 31, 44047
1967, but prior to January 1, 1976: 44048

(a) Six dollars and twenty-four cents per patient day if the 44049
cost of construction was five thousand one hundred fifty dollars 44050
or more per bed; 44051

(b) Five dollars and twenty-four cents per patient day if the 44052

cost of construction was less than five thousand one hundred fifty 44053
dollars per bed, but exceeded three thousand five hundred dollars 44054
per bed; 44055

(c) Four dollars and twenty-four cents per patient day if the 44056
cost of construction was three thousand five hundred dollars or 44057
less per bed. 44058

(4) For facilities with dates of licensure after December 31, 44059
1975, but prior to January 1, 1979: 44060

(a) Seven dollars and twenty-four cents per patient day if 44061
the cost of construction was six thousand eight hundred dollars or 44062
more per bed; 44063

(b) Six dollars and twenty-four cents per patient day if the 44064
cost of construction was less than six thousand eight hundred 44065
dollars per bed but exceeded five thousand one hundred fifty 44066
dollars per bed; 44067

(c) Five dollars and twenty-four cents per patient day if the 44068
cost of construction was five thousand one hundred fifty dollars 44069
or less per bed, but exceeded three thousand five hundred dollars 44070
per bed; 44071

(d) Four dollars and twenty-four cents per patient day if the 44072
cost of construction was three thousand five hundred dollars or 44073
less per bed. 44074

(5) For facilities with dates of licensure after December 31, 44075
1978, but prior to January 1, 1981: 44076

(a) Seven dollars and seventy-four cents per patient day if 44077
the cost of construction was seven thousand six hundred 44078
twenty-five dollars or more per bed; 44079

(b) Seven dollars and twenty-four cents per patient day if 44080
the cost of construction was less than seven thousand six hundred 44081
twenty-five dollars per bed but exceeded six thousand eight 44082

hundred dollars per bed; 44083

(c) Six dollars and twenty-four cents per patient day if the 44084
cost of construction was six thousand eight hundred dollars or 44085
less per bed but exceeded five thousand one hundred fifty dollars 44086
per bed; 44087

(d) Five dollars and twenty-four cents per patient day if the 44088
cost of construction was five thousand one hundred fifty dollars 44089
or less but exceeded three thousand five hundred dollars per bed; 44090

(e) Four dollars and twenty-four cents per patient day if the 44091
cost of construction was three thousand five hundred dollars or 44092
less per bed. 44093

(6) For facilities with dates of licensure in 1981 or any 44094
year thereafter prior to December 22, 1992, the following amount: 44095

(a) For facilities with construction costs less than seven 44096
thousand six hundred twenty-five dollars per bed, the applicable 44097
amounts for the construction costs specified in divisions 44098
(E)(5)(b) to (e) of this section; 44099

(b) For facilities with construction costs of seven thousand 44100
six hundred twenty-five dollars or more per bed, six dollars per 44101
patient day, provided that for 1981 and annually thereafter prior 44102
to December 22, 1992, the department shall do both of the 44103
following to the six-dollar amount: 44104

(i) Adjust the amount for fluctuations in construction costs 44105
calculated by the department using the "Dodge building cost 44106
indexes, northeastern and north central states," published by 44107
Marshall and Swift, using 1980 as the base year; 44108

(ii) Increase the amount, as adjusted for inflation under 44109
division (E)(6)(b)(i) of this section, by one dollar and 44110
seventy-four cents. 44111

(7) For facilities with dates of licensure on or after 44112

January 1, 1992, seven dollars and ninety-seven cents, adjusted 44113
for fluctuations in construction costs between 1991 and 1993 as 44114
calculated by the department using the "Dodge building cost 44115
indexes, northeastern and north central states," published by 44116
Marshall and Swift, and then increased by one dollar and 44117
seventy-four cents. 44118

For the fiscal year that begins July 1, 1994, each of the 44119
amounts listed in divisions (E)(1) to (7) of this section shall be 44120
increased by twenty-five cents. For the fiscal year that begins 44121
July 1, 1995, each of those amounts shall be increased by an 44122
additional twenty-five cents. For subsequent fiscal years, each of 44123
those amounts, as increased for the prior fiscal year, shall be 44124
adjusted to reflect the rate of inflation for the twelve-month 44125
period beginning on the first day of July of the calendar year 44126
preceding the calendar year that precedes the fiscal year and 44127
ending on the following thirtieth day of June, using the consumer 44128
price index for shelter costs for all urban consumers for the 44129
north central region, as published by the United States bureau of 44130
labor statistics. 44131

If the amount established for a nursing facility under this 44132
division is less than the amount that applied to the facility 44133
under division (B) of former section 5111.25 of the Revised Code, 44134
as the former section existed immediately prior to December 22, 44135
1992, the amount used to calculate the efficiency incentive for 44136
the facility under division (D)(2) of this section shall be the 44137
amount that was calculated under division (B) of the former 44138
section. 44139

(F) Beginning July 1, 1993, regardless of the facility's date 44140
of licensure or the date of the nonextensive renovations, the rate 44141
for the costs of nonextensive renovations for nursing facilities 44142
shall be eighty-five per cent of the desk-reviewed, actual, 44143
allowable, per diem, nonextensive renovation costs. This division 44144

applies to nonextensive renovations regardless of whether they are 44145
made by an owner or a lessee. If the tenancy of a lessee that has 44146
made nonextensive renovations ends before the depreciation expense 44147
for the renovation costs has been fully reported, the former 44148
lessee shall not report the undepreciated balance as an expense. 44149

(1) For a nonextensive renovation made after July 1, 1993, to 44150
qualify for payment under this division, both of the following 44151
conditions must be met: 44152

(a) At least five years have elapsed since the date of 44153
licensure of the portion of the facility that is proposed to be 44154
renovated, except that this condition does not apply if the 44155
renovation is necessary to meet the requirements of federal, 44156
state, or local statutes, ordinances, rules, or policies. 44157

(b) The provider has obtained prior approval from the 44158
department of job and family services, and if required the 44159
director of health has granted a certificate of need for the 44160
renovation under section 3702.52 of the Revised Code. The provider 44161
shall submit a plan that describes in detail the changes in 44162
capital assets to be accomplished by means of the renovation and 44163
the timetable for completing the project. The time for completion 44164
of the project shall be no more than eighteen months after the 44165
renovation begins. The department of job and family services shall 44166
adopt rules in accordance with Chapter 119. of the Revised Code 44167
that specify criteria and procedures for prior approval of 44168
renovation projects. No provider shall separate a project with the 44169
intent to evade the characterization of the project as a 44170
renovation or as an extensive renovation. No provider shall 44171
increase the scope of a project after it is approved by the 44172
department of job and family services unless the increase in scope 44173
is approved by the department. 44174

(2) The payment provided for in this division is the only 44175
payment that shall be made for the costs of a nonextensive 44176

renovation. Nonextensive renovation costs shall not be included in 44177
costs of ownership, and a nonextensive renovation shall not affect 44178
the date of licensure for purposes of calculating the efficiency 44179
incentive under divisions (D) and (E) of this section. 44180

(G) ~~The owner of a nursing facility operating under a 44181
provider agreement shall provide written notice to the department 44182
of job and family services at least forty five days prior to 44183
entering into any contract of sale for the facility or voluntarily 44184
terminating participation in the medical assistance program. After 44185
the date on which a transaction of sale of a nursing facility is 44186
closed, the owner shall refund to the department the amount of 44187
excess depreciation paid to the facility by the department for 44188
each year the owner has operated the facility under a provider 44189
agreement and prorated according to the number of medicaid patient 44190
days for which the facility has received payment. If a nursing 44191
facility is sold after five or fewer years of operation under a 44192
provider agreement, the refund to the department shall be equal to 44193
the excess depreciation paid to the facility. If a nursing 44194
facility is sold after more than five years but less than ten 44195
years of operation under a provider agreement, the refund to the 44196
department shall equal the excess depreciation paid to the 44197
facility multiplied by twenty per cent, multiplied by the 44198
difference between ten and the number of years that the facility 44199
was operated under a provider agreement. If a nursing facility is 44200
sold after ten or more years of operation under a provider 44201
agreement, the owner shall not refund any excess depreciation to 44202
the department. The owner of a nursing facility that is sold or 44203
that ~~voluntarily terminates~~ undergoes a voluntary withdrawal of 44204
participation in the medical assistance program, as defined in 44205
section 5111.65 of the Revised Code, also shall refund any other 44206
amount that the department properly finds to be due after ~~the a~~ 44207
final fiscal audit ~~conducted under this division~~ the department 44208
shall conduct. For the purposes of this division, "depreciation 44209~~

paid to the facility" means the amount paid to the nursing 44210
facility for cost of ownership pursuant to this section less any 44211
amount paid for interest costs, amortization of financing costs, 44212
and lease expenses. For the purposes of this division, "excess 44213
depreciation" is the nursing facility's depreciated basis, which 44214
is the owner's cost less accumulated depreciation, subtracted from 44215
the purchase price net of selling costs but not exceeding the 44216
amount of depreciation paid to the facility. 44217

~~A cost report shall be filed with the department within 44218
ninety days after the date on which the transaction of sale is 44219
closed or participation is voluntarily terminated. The report 44220
shall show the accumulated depreciation, the sales price, and 44221
other information required by the department. The department shall 44222
provide for a bank, trust company, or savings and loan association 44223
to hold in escrow the amount of the last two monthly payments to a 44224
nursing facility made pursuant to division (A)(1) of section 44225
5111.22 of the Revised Code before a sale or termination of 44226
participation or, if the owner fails, within the time required by 44227
this division, to notify the department before entering into a 44228
contract of sale for the facility, the amount of the first two 44229
monthly payments made to the facility after the department learns 44230
of the contract, regardless of whether a new owner is in 44231
possession of the facility. If the amount the owner will be 44232
required to refund under this section is likely to be less than 44233
the amount of the two monthly payments otherwise put into escrow 44234
under this division, the department shall take one of the 44235
following actions instead of withholding the amount of the two 44236
monthly payments:~~ 44237

~~(1) In the case of an owner that owns other facilities that 44238
participate in the medical assistance program, obtain a promissory 44239
note in an amount sufficient to cover the amount likely to be 44240
refunded;~~ 44241

~~(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.~~

~~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.~~

~~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 44274
termination will not take place, the facility shall provide notice 44275
to the department at least forty five days prior to entering into 44276
any contract of sale or terminating participation at any future 44277
time. 44278~~

(H) The department shall pay each eligible proprietary 44279
nursing facility a return on the facility's net equity computed at 44280
the rate of one and one-half times the average interest rate on 44281
special issues of public debt obligations issued to the federal 44282
hospital insurance trust fund for the cost reporting period, 44283
except that no facility's return on net equity shall exceed fifty 44284
cents per patient day. 44285

When calculating the rate for return on net equity, the 44286
department shall use the greater of the facility's inpatient days 44287
during the applicable cost reporting period or the number of 44288
inpatient days the facility would have had during that period if 44289
its occupancy rate had been ninety-five per cent. 44290

(I) If a nursing facility would receive a lower rate for 44291
capital costs for assets in the facility's possession on July 1, 44292
1993, under this section than it would receive under former 44293
section 5111.25 of the Revised Code, as the former section existed 44294
immediately prior to December 22, 1992, the facility shall receive 44295
for those assets the rate it would have received under the former 44296
section for each fiscal year beginning on or after July 1, 1993, 44297
until the rate it would receive under this section exceeds the 44298
rate it would have received under the former section. Any facility 44299
that receives a rate calculated under the former section 5111.25 44300
of the Revised Code for assets in the facility's possession on 44301
July 1, 1993, also shall receive a rate calculated under this 44302
section for costs of any assets it constructs or acquires after 44303
July 1, 1993. 44304

Sec. 5111.251. (A) The department of job and family services 44305
shall pay each eligible intermediate care facility for the 44306
mentally retarded for its reasonable capital costs, a per resident 44307
per day rate established prospectively each fiscal year for each 44308
intermediate care facility for the mentally retarded. Except as 44309
otherwise provided in sections 5111.20 to 5111.32 of the Revised 44310
Code, the rate shall be based on the facility's capital costs for 44311
the calendar year preceding the fiscal year in which the rate will 44312
be paid. The rate shall equal the sum of the following: 44313

(1) The facility's desk-reviewed, actual, allowable, per diem 44314
cost of ownership for the preceding cost reporting period, limited 44315
as provided in divisions (C) and (F) of this section; 44316

(2) Any efficiency incentive determined under division (B) of 44317
this section; 44318

(3) Any amounts for renovations determined under division (D) 44319
of this section; 44320

(4) Any amounts for return on equity determined under 44321
division (I) of this section. 44322

Buildings shall be depreciated using the straight line method 44323
over forty years or over a different period approved by the 44324
department. Components and equipment shall be depreciated using 44325
the straight line method over a period designated by the director 44326
of job and family services in rules adopted in accordance with 44327
Chapter 119. of the Revised Code, consistent with the guidelines 44328
of the American hospital association, or over a different period 44329
approved by the department of job and family services. Any rules 44330
adopted under this division that specify useful lives of 44331
buildings, components, or equipment apply only to assets acquired 44332
on or after July 1, 1993. Depreciation for costs paid or 44333
reimbursed by any government agency shall not be included in costs 44334

of ownership or renovation unless that part of the payment under 44335
sections 5111.20 to 5111.32 of the Revised Code is used to 44336
reimburse the government agency. 44337

(B) The department of job and family services shall pay to 44338
each intermediate care facility for the mentally retarded an 44339
efficiency incentive equal to fifty per cent of the difference 44340
between any desk-reviewed, actual, allowable cost of ownership and 44341
the applicable limit on cost of ownership payments under division 44342
(C) of this section. For purposes of computing the efficiency 44343
incentive, depreciation for costs paid or reimbursed by any 44344
government agency shall be considered as a cost of ownership, and 44345
the applicable limit under division (C) of this section shall 44346
apply both to facilities with more than eight beds and facilities 44347
with eight or fewer beds. The efficiency incentive paid to a 44348
facility with eight or fewer beds shall not exceed three dollars 44349
per patient day, adjusted annually for the inflation rate for the 44350
twelve-month period beginning on the first day of July of the 44351
calendar year preceding the calendar year that precedes the fiscal 44352
year for which the efficiency incentive is determined and ending 44353
on the thirtieth day of the following June, using the consumer 44354
price index for shelter costs for all urban consumers for the 44355
north central region, as published by the United States bureau of 44356
labor statistics. 44357

(C) Cost of ownership payments to intermediate care 44358
facilities for the mentally retarded with more than eight beds 44359
shall not exceed the following limits: 44360

(1) For facilities with dates of licensure prior to January 44361
1, 1958, not exceeding two dollars and fifty cents per patient 44362
day; 44363

(2) For facilities with dates of licensure after December 31, 44364
1957, but prior to January 1, 1968, not exceeding: 44365

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	44366 44367 44368
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	44369 44370 44371
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	44372 44373
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	44374 44375 44376
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	44377 44378 44379 44380
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	44381 44382 44383
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	44384 44385
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	44386 44387 44388
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	44389 44390 44391 44392
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per	44393 44394 44395

bed;	44396
(d) Two dollars and fifty cents per patient day if the cost	44397
of construction was three thousand five hundred dollars or less	44398
per bed.	44399
(5) For facilities with dates of licensure after December 31,	44400
1978, but prior to January 1, 1980, not exceeding:	44401
(a) Six dollars per patient day if the cost of construction	44402
was seven thousand six hundred twenty-five dollars or more per	44403
bed;	44404
(b) Five dollars and fifty cents per patient day if the cost	44405
of construction was less than seven thousand six hundred	44406
twenty-five dollars per bed but exceeds six thousand eight hundred	44407
dollars per bed;	44408
(c) Four dollars and fifty cents per patient day if the cost	44409
of construction was six thousand eight hundred dollars or less per	44410
bed but exceeds five thousand one hundred fifty dollars per bed;	44411
(d) Three dollars and fifty cents per patient day if the cost	44412
of construction was five thousand one hundred fifty dollars or	44413
less but exceeds three thousand five hundred dollars per bed;	44414
(e) Two dollars and fifty cents per patient day if the cost	44415
of construction was three thousand five hundred dollars or less	44416
per bed.	44417
(6) For facilities with dates of licensure after December 31,	44418
1979, but prior to January 1, 1981, not exceeding:	44419
(a) Twelve dollars per patient day if the beds were	44420
originally licensed as residential facility beds by the department	44421
of mental retardation and developmental disabilities;	44422
(b) Six dollars per patient day if the beds were originally	44423
licensed as nursing home beds by the department of health.	44424
(7) For facilities with dates of licensure after December 31,	44425

1980, but prior to January 1, 1982, not exceeding:	44426
(a) Twelve dollars per patient day if the beds were	44427
originally licensed as residential facility beds by the department	44428
of mental retardation and developmental disabilities;	44429
(b) Six dollars and forty-five cents per patient day if the	44430
beds were originally licensed as nursing home beds by the	44431
department of health.	44432
(8) For facilities with dates of licensure after December 31,	44433
1981, but prior to January 1, 1983, not exceeding:	44434
(a) Twelve dollars per patient day if the beds were	44435
originally licensed as residential facility beds by the department	44436
of mental retardation and developmental disabilities;	44437
(b) Six dollars and seventy-nine cents per patient day if the	44438
beds were originally licensed as nursing home beds by the	44439
department of health.	44440
(9) For facilities with dates of licensure after December 31,	44441
1982, but prior to January 1, 1984, not exceeding:	44442
(a) Twelve dollars per patient day if the beds were	44443
originally licensed as residential facility beds by the department	44444
of mental retardation and developmental disabilities;	44445
(b) Seven dollars and nine cents per patient day if the beds	44446
were originally licensed as nursing home beds by the department of	44447
health.	44448
(10) For facilities with dates of licensure after December	44449
31, 1983, but prior to January 1, 1985, not exceeding:	44450
(a) Twelve dollars and twenty-four cents per patient day if	44451
the beds were originally licensed as residential facility beds by	44452
the department of mental retardation and developmental	44453
disabilities;	44454
(b) Seven dollars and twenty-three cents per patient day if	44455

the beds were originally licensed as nursing home beds by the 44456
department of health. 44457

(11) For facilities with dates of licensure after December 44458
31, 1984, but prior to January 1, 1986, not exceeding: 44459

(a) Twelve dollars and fifty-three cents per patient day if 44460
the beds were originally licensed as residential facility beds by 44461
the department of mental retardation and developmental 44462
disabilities; 44463

(b) Seven dollars and forty cents per patient day if the beds 44464
were originally licensed as nursing home beds by the department of 44465
health. 44466

(12) For facilities with dates of licensure after December 44467
31, 1985, but prior to January 1, 1987, not exceeding: 44468

(a) Twelve dollars and seventy cents per patient day if the 44469
beds were originally licensed as residential facility beds by the 44470
department of mental retardation and developmental disabilities; 44471

(b) Seven dollars and fifty cents per patient day if the beds 44472
were originally licensed as nursing home beds by the department of 44473
health. 44474

(13) For facilities with dates of licensure after December 44475
31, 1986, but prior to January 1, 1988, not exceeding: 44476

(a) Twelve dollars and ninety-nine cents per patient day if 44477
the beds were originally licensed as residential facility beds by 44478
the department of mental retardation and developmental 44479
disabilities; 44480

(b) Seven dollars and sixty-seven cents per patient day if 44481
the beds were originally licensed as nursing home beds by the 44482
department of health. 44483

(14) For facilities with dates of licensure after December 44484
31, 1987, but prior to January 1, 1989, not exceeding thirteen 44485

dollars and twenty-six cents per patient day;	44486
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;	44487 44488 44489
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	44490 44491 44492
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	44493 44494 44495
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	44496 44497 44498
(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.	44499 44500 44501
(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, 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. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this	44502 44503 44504 44505 44506 44507 44508 44509 44510 44511 44512 44513 44514 44515 44516

section. This division applies to nonextensive renovations 44517
regardless of whether they are made by an owner or a lessee. If 44518
the tenancy of a lessee that has made renovations ends before the 44519
depreciation expense for the renovation costs has been fully 44520
reported, the former lessee shall not report the undepreciated 44521
balance as an expense. 44522

For a nonextensive renovation to qualify for payment under 44523
this division, both of the following conditions must be met: 44524

(1) At least five years have elapsed since the date of 44525
licensure or date of an extensive renovation of the portion of the 44526
facility that is proposed to be renovated, except that this 44527
condition does not apply if the renovation is necessary to meet 44528
the requirements of federal, state, or local statutes, ordinances, 44529
rules, or policies. 44530

(2) The provider has obtained prior approval from the 44531
department of job and family services. The provider shall submit a 44532
plan that describes in detail the changes in capital assets to be 44533
accomplished by means of the renovation and the timetable for 44534
completing the project. The time for completion of the project 44535
shall be no more than eighteen months after the renovation begins. 44536
The director of job and family services shall adopt rules in 44537
accordance with Chapter 119. of the Revised Code that specify 44538
criteria and procedures for prior approval of renovation projects. 44539
No provider shall separate a project with the intent to evade the 44540
characterization of the project as a renovation or as an extensive 44541
renovation. No provider shall increase the scope of a project 44542
after it is approved by the department of job and family services 44543
unless the increase in scope is approved by the department. 44544

(E) The amounts specified in divisions (C) and (D) of this 44545
section shall be adjusted beginning July 1, 1993, for the 44546
estimated inflation for the twelve-month period beginning on the 44547
first day of July of the calendar year preceding the calendar year 44548

that precedes the fiscal year for which rate will be paid and 44549
ending on the thirtieth day of the following June, using the 44550
consumer price index for shelter costs for all urban consumers for 44551
the north central region, as published by the United States bureau 44552
of labor statistics. 44553

(F)(1) For facilities of eight or fewer beds that have dates 44554
of licensure or have been granted project authorization by the 44555
department of mental retardation and developmental disabilities 44556
before July 1, 1993, and for facilities of eight or fewer beds 44557
that have dates of licensure or have been granted project 44558
authorization after that date if the facilities demonstrate that 44559
they made substantial commitments of funds on or before that date, 44560
cost of ownership shall not exceed eighteen dollars and thirty 44561
cents per resident per day. The eighteen-dollar and thirty-cent 44562
amount shall be increased by the change in the "Dodge building 44563
cost indexes, northeastern and north central states," published by 44564
Marshall and Swift, during the period beginning June 30, 1990, and 44565
ending July 1, 1993, and by the change in the consumer price index 44566
for shelter costs for all urban consumers for the north central 44567
region, as published by the United States bureau of labor 44568
statistics, annually thereafter. 44569

(2) For facilities with eight or fewer beds that have dates 44570
of licensure or have been granted project authorization by the 44571
department of mental retardation and developmental disabilities on 44572
or after July 1, 1993, for which substantial commitments of funds 44573
were not made before that date, cost of ownership payments shall 44574
not exceed the applicable amount calculated under division (F)(1) 44575
of this section, if the department of job and family services 44576
gives prior approval for construction of the facility or, 44577
regardless of whether the department gives prior approval, if the 44578
facility obtains a residential facility license under section 44579
5123.19 of the Revised Code pursuant to section 5123.1910 of the 44580

Revised Code. If the department does not give prior approval, cost 44581
of ownership payments shall not exceed the amount specified in 44582
division (C) of this section unless the facility obtains a 44583
residential facility license under section 5123.19 of the Revised 44584
Code pursuant to section 5123.1910 of the Revised Code. 44585

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 44586
section, the total payment for cost of ownership, cost of 44587
ownership efficiency incentive, and capitalized costs of 44588
renovations for an intermediate care facility for the mentally 44589
retarded with eight or fewer beds shall not exceed the sum of the 44590
limitations specified in divisions (C) and (D) of this section. 44591

(G) Notwithstanding any provision of this section or section 44592
5111.24 of the Revised Code, the director of job and family 44593
services may adopt rules in accordance with Chapter 119. of the 44594
Revised Code that provide for a calculation of a combined maximum 44595
payment limit for indirect care costs and cost of ownership for 44596
intermediate care facilities for the mentally retarded with eight 44597
or fewer beds. 44598

~~(H) After June 30, 1980, the owner of an intermediate care 44599
facility for the mentally retarded operating under a provider 44600
agreement shall provide written notice to the department of job 44601
and family services at least forty five days prior to entering 44602
into any contract of sale for the facility or voluntarily 44603
terminating participation in the medical assistance program. After 44604
the date on which a transaction of sale of an intermediate care 44605
facility for the mentally retarded is closed, the owner shall 44606
refund to the department the amount of excess depreciation paid to 44607
the facility by the department for each year the owner has 44608
operated the facility under a provider agreement and prorated 44609
according to the number of medicaid patient days for which the 44610
facility has received payment. If an intermediate care facility 44611
for the mentally retarded is sold after five or fewer years of 44612~~

operation under a provider agreement, the refund to the department 44613
shall be equal to the excess depreciation paid to the facility. If 44614
an intermediate care facility for the mentally retarded is sold 44615
after more than five years but less than ten years of operation 44616
under a provider agreement, the refund to the department shall 44617
equal the excess depreciation paid to the facility multiplied by 44618
twenty per cent, multiplied by the number of years less than ten 44619
that a facility was operated under a provider agreement. If an 44620
intermediate care facility for the mentally retarded is sold after 44621
ten or more years of operation under a provider agreement, the 44622
owner shall not refund any excess depreciation to the department. 44623
For the purposes of this division, "depreciation paid to the 44624
facility" means the amount paid to the intermediate care facility 44625
for the mentally retarded for cost of ownership pursuant to this 44626
section less any amount paid for interest costs. For the purposes 44627
of this division, "excess depreciation" is the intermediate care 44628
facility for the mentally retarded's depreciated basis, which is 44629
the owner's cost less accumulated depreciation, subtracted from 44630
the purchase price but not exceeding the amount of depreciation 44631
paid to the facility. 44632

~~A cost report shall be filed with the department within 44633
ninety days after the date on which the transaction of sale is 44634
closed or participation is voluntarily terminated for an 44635
intermediate care facility for the mentally retarded subject to 44636
this division. The report shall show the accumulated depreciation, 44637
the sales price, and other information required by the department. 44638
The department shall provide for a bank, trust company, or savings 44639
and loan association to hold in escrow the amount of the last two 44640
monthly payments to an intermediate care facility for the mentally 44641
retarded made pursuant to division (A)(1) of section 5111.22 of 44642
the Revised Code before a sale or voluntary termination of 44643
participation or, if the owner fails, within the time required by 44644
this division, to notify the department before entering into a 44645~~

~~contract of sale for the facility, the amount of the first two 44646
monthly payments made to the facility after the department learns 44647
of the contract, regardless of whether a new owner is in 44648
possession of the facility. If the amount the owner will be 44649
required to refund under this section is likely to be less than 44650
the amount of the two monthly payments otherwise put into escrow 44651
under this division, the department shall take one of the 44652
following actions instead of withholding the amount of the two 44653
monthly payments:~~ 44654

~~(1) In the case of an owner that owns other facilities that 44655
participate in the medical assistance program, obtain a promissory 44656
note in an amount sufficient to cover the amount likely to be 44657
refunded;~~ 44658

~~(2) In the case of all other owners, withhold the amount of 44659
the last monthly payment to the intermediate care facility for the 44660
mentally retarded or, if the owner fails, within the time required 44661
by this division, to notify the department before entering into a 44662
contract of sale for the facility, the amount of the first monthly 44663
payment made to the facility after the department learns of the 44664
contract, regardless of whether a new owner is in possession of 44665
the facility.~~ 44666

~~The department shall, within ninety days following the filing 44667
of the cost report, audit the report and issue an audit report to 44668
the owner. The department also may audit any other cost reports 44669
for the facility that have been filed during the previous three 44670
years. In the audit report, the department shall state its 44671
findings and the amount of any money owed to the department by the 44672
intermediate care facility for the mentally retarded. The findings 44673
shall be subject to an adjudication conducted in accordance with 44674
Chapter 119. of the Revised Code. No later than fifteen days after 44675
the owner agrees to a settlement, any funds held in escrow less 44676
any amounts due to the department shall be released to the owner 44677~~

~~and amounts due to the department shall be paid to the department.~~ 44678
~~If the amounts in escrow are less than the amounts due to the~~ 44679
~~department, the balance shall be paid to the department within~~ 44680
~~fifteen days after the owner agrees to a settlement. If the~~ 44681
~~department does not issue its audit report within the ninety day~~ 44682
~~period, the department shall release any money held in escrow to~~ 44683
~~the owner.~~ For the purposes of this section, a transfer of 44684
corporate stock, the merger of one corporation into another, or a 44685
consolidation does not constitute a sale. 44686

~~If an intermediate care facility for the mentally retarded is~~ 44687
~~not sold or its participation is not terminated after notice is~~ 44688
~~provided to the department under this division, the department~~ 44689
~~shall order any payments held in escrow released to the facility~~ 44690
~~upon receiving written notice from the owner that there will be no~~ 44691
~~sale or termination of participation. After written notice is~~ 44692
~~received from an intermediate care facility for the mentally~~ 44693
~~retarded that a sale or termination of participation will not take~~ 44694
~~place, the facility shall provide notice to the department at~~ 44695
~~least forty five days prior to entering into any contract of sale~~ 44696
~~or terminating participation at any future time.~~ 44697

(I) The department of job and family services shall pay each 44698
eligible proprietary intermediate care facility for the mentally 44699
retarded a return on the facility's net equity computed at the 44700
rate of one and one-half times the average of interest rates on 44701
special issues of public debt obligations issued to the federal 44702
hospital insurance trust fund for the cost reporting period. No 44703
facility's return on net equity paid under this division shall 44704
exceed one dollar per patient day. 44705

In calculating the rate for return on net equity, the 44706
department shall use the greater of the facility's inpatient days 44707
during the applicable cost reporting period or the number of 44708
inpatient days the facility would have had during that period if 44709

its occupancy rate had been ninety-five per cent. 44710

(J)(1) Except as provided in division (J)(2) of this section, 44711
if a provider leases or transfers an interest in a facility to 44712
another provider who is a related party, the related party's 44713
allowable cost of ownership shall include the lesser of the 44714
following: 44715

(a) The annual lease expense or actual cost of ownership, 44716
whichever is applicable; 44717

(b) The reasonable cost to the lessor or provider making the 44718
transfer. 44719

(2) If a provider leases or transfers an interest in a 44720
facility to another provider who is a related party, regardless of 44721
the date of the lease or transfer, the related party's allowable 44722
cost of ownership shall include the annual lease expense or actual 44723
cost of ownership, whichever is applicable, subject to the 44724
limitations specified in divisions (B) to (I) of this section, if 44725
all of the following conditions are met: 44726

(a) The related party is a relative of owner; 44727

(b) In the case of a lease, if the lessor retains any 44728
ownership interest, it is, except as provided in division 44729
(J)(2)(d)(ii) of this section, in only the real property and any 44730
improvements on the real property; 44731

(c) In the case of a transfer, the provider making the 44732
transfer retains, except as provided in division (J)(2)(d)(iv) of 44733
this section, no ownership interest in the facility; 44734

(d) The department of job and family services determines that 44735
the lease or transfer is an arm's length transaction pursuant to 44736
rules the department shall adopt in accordance with Chapter 119. 44737
of the Revised Code no later than December 31, 2000. The rules 44738
shall provide that a lease or transfer is an arm's length 44739

transaction if all of the following, as applicable, apply: 44740

(i) In the case of a lease, once the lease goes into effect, 44741
the lessor has no direct or indirect interest in the lessee or, 44742
except as provided in division (J)(2)(b) of this section, the 44743
facility itself, including interest as an owner, officer, 44744
director, employee, independent contractor, or consultant, but 44745
excluding interest as a lessor. 44746

(ii) In the case of a lease, the lessor does not reacquire an 44747
interest in the facility except through the exercise of a lessor's 44748
rights in the event of a default. If the lessor reacquires an 44749
interest in the facility in this manner, the department shall 44750
treat the facility as if the lease never occurred when the 44751
department calculates its reimbursement rates for capital costs. 44752

(iii) In the case of a transfer, once the transfer goes into 44753
effect, the provider that made the transfer has no direct or 44754
indirect interest in the provider that acquires the facility or 44755
the facility itself, including interest as an owner, officer, 44756
director, employee, independent contractor, or consultant, but 44757
excluding interest as a creditor. 44758

(iv) In the case of a transfer, the provider that made the 44759
transfer does not reacquire an interest in the facility except 44760
through the exercise of a creditor's rights in the event of a 44761
default. If the provider reacquires an interest in the facility in 44762
this manner, the department shall treat the facility as if the 44763
transfer never occurred when the department calculates its 44764
reimbursement rates for capital costs. 44765

(v) The lease or transfer satisfies any other criteria 44766
specified in the rules. 44767

(e) Except in the case of hardship caused by a catastrophic 44768
event, as determined by the department, or in the case of a lessor 44769
or provider making the transfer who is at least sixty-five years 44770

of age, not less than twenty years have elapsed since, for the 44771
same facility, allowable cost of ownership was determined most 44772
recently under this division. 44773

Sec. 5111.262. (A) For costs incurred during calendar year 44774
2000 and thereafter, costs reported in nursing facilities' cost 44775
reports for purchased nursing services shall be allowable direct 44776
care costs up to ~~twenty~~ a per cent specified in division (B) of 44777
this section of the nursing facility's costs specified in the cost 44778
report for services provided that year by registered nurses, 44779
licensed practical nurses, and nurse aides who are employees of 44780
the facility, plus one-half of the amount by which the reported 44781
costs for purchased nursing services exceed ~~that~~ the applicable 44782
percentage. 44783

(B) For the second half of calendar year 2003 and the first 44784
half of calendar year 2004, the per cent shall be fifteen. For the 44785
second half of calendar year 2004 and the first half of calendar 44786
year 2005, the per cent shall be ten. For other calendar years, 44787
the per cent shall be twenty. 44788

Sec. 5111.28. (A) If a provider properly amends its cost 44789
report under section 5111.27 of the Revised Code and the amended 44790
report shows that the provider received a lower rate under the 44791
original cost report than it was entitled to receive, the 44792
department shall adjust the provider's rate prospectively to 44793
reflect the corrected information. The department shall pay the 44794
adjusted rate beginning two months after the first day of the 44795
month after the provider files the amended cost report. If the 44796
department finds, from an exception review of resident assessment 44797
information conducted after the effective date of the rate for 44798
direct care costs that is based on the assessment information, 44799
that inaccurate assessment information resulted in the provider 44800
receiving a lower rate than it was entitled to receive, the 44801

department prospectively shall adjust the provider's rate 44802
accordingly and shall make payments using the adjusted rate for 44803
the remainder of the calendar quarter for which the assessment 44804
information is used to determine the rate, beginning one month 44805
after the first day of the month after the exception review is 44806
completed. 44807

(B) If the provider properly amends its cost report under 44808
section 5111.27 of the Revised Code, the department makes a 44809
finding based on an audit under that section, or the department 44810
makes a finding based on an exception review of resident 44811
assessment information conducted under that section after the 44812
effective date of the rate for direct care costs that is based on 44813
the assessment information, any of which results in a 44814
determination that the provider has received a higher rate than it 44815
was entitled to receive, the department shall recalculate the 44816
provider's rate using the revised information. The department 44817
shall apply the recalculated rate to the periods when the provider 44818
received the incorrect rate to determine the amount of the 44819
overpayment. The provider shall refund the amount of the 44820
overpayment. 44821

In addition to requiring a refund under this division, the 44822
department may charge the provider interest at the applicable rate 44823
specified in this division from the time the overpayment was made. 44824

(1) If the overpayment resulted from costs reported for 44825
calendar year 1993, the interest shall be no greater than one and 44826
one-half times the average bank prime rate. 44827

(2) If the overpayment resulted from costs reported for 44828
subsequent calendar years: 44829

(a) The interest shall be no greater than two times the 44830
average bank prime rate if the overpayment was equal to or less 44831
than one per cent of the total medicaid payments to the provider 44832

for the fiscal year for which the incorrect information was used 44833
to establish a rate. 44834

(b) The interest shall be no greater than two and one-half 44835
times the current average bank prime rate if the overpayment was 44836
greater than one per cent of the total medicaid payments to the 44837
provider for the fiscal year for which the incorrect information 44838
was used to establish a rate. 44839

(C) The department also may impose the following penalties: 44840

(1) If a provider does not furnish invoices or other 44841
documentation that the department requests during an audit within 44842
sixty days after the request, no more than the greater of one 44843
thousand dollars per audit or twenty-five per cent of the 44844
cumulative amount by which the costs for which documentation was 44845
not furnished increased the total medicaid payments to the 44846
provider during the fiscal year for which the costs were used to 44847
establish a rate; 44848

(2) If an ~~owner~~ exiting operator fails to provide a properly 44849
completed notice of ~~sale of the facility or closure,~~ voluntary 44850
termination, voluntary withdrawal of participation ~~in the medical~~ 44851
~~assistance program,~~ or change of operator, as required by section 44852
~~5111.25~~ 5111.66 or ~~5111.251~~ 5111.67 of the Revised Code, no more 44853
than the current average bankprime rate plus four per cent of ~~the~~ 44854
~~last~~ an amount equal to two times the average amount of monthly 44855
payments to the exiting operator under the medicaid program for 44856
the twelve-month period immediately preceding the month that 44857
includes the last day the exiting operator's provider agreement is 44858
in effect or, in the case of a voluntary withdrawal of 44859
participation, the effective date of the voluntary withdrawal of 44860
participation. 44861

(D) If the provider continues to participate in the ~~medical~~ 44862
~~assistance~~ medicaid program, the department shall deduct any 44863

amount that the provider is required to refund under this section, 44864
and the amount of any interest charged or penalty imposed under 44865
this section, from the next available payment from the department 44866
to the provider. The department and the provider may enter into an 44867
agreement under which the amount, together with interest, is 44868
deducted in installments from payments from the department to the 44869
provider. If the provider does not continue to participate in the 44870
medicaid program, the department shall collect any amount that the 44871
provider owes to the department under this section from the 44872
withholding, security, or both that the department makes or 44873
requires under section 5111.681 of the Revised Code. 44874

(E) The department shall transmit refunds and penalties to 44875
the treasurer of state for deposit in the general revenue fund. 44876

(F) For the purpose of this section, the department shall 44877
determine the average bank prime rate using statistical release 44878
H.15, "selected interest rates," a weekly publication of the 44879
federal reserve board, or any successor publication. If 44880
statistical release H.15, or its successor, ceases to contain the 44881
bank prime rate information or ceases to be published, the 44882
department shall request a written statement of the average bank 44883
prime rate from the federal reserve bank of Cleveland or the 44884
federal reserve board. 44885

Sec. 5111.29. (A) The director of job and family services 44886
shall adopt rules in accordance with Chapter 119. of the Revised 44887
Code that establish a process under which a nursing facility or 44888
intermediate care facility for the mentally retarded, or a group 44889
or association of facilities, may seek reconsideration of rates 44890
established under sections 5111.23 to 5111.28 of the Revised Code, 44891
including a rate for direct care costs recalculated before the 44892
effective date of the rate as a result of an exception review of 44893
resident assessment information conducted under section 5111.27 of 44894

the Revised Code. 44895

(1) Except as provided in divisions (A)(2) to (4) of this 44896
section, the only issue that a facility, group, or association may 44897
raise in the rate reconsideration shall be whether the rate was 44898
calculated in accordance with sections 5111.23 to 5111.28 of the 44899
Revised Code and the rules adopted under those sections. The rules 44900
shall permit a facility, group, or association to submit written 44901
arguments or other materials that support its position. The rules 44902
shall specify time frames within which the facility, group, or 44903
association and the department must act. If the department 44904
determines, as a result of the rate reconsideration, that the rate 44905
established for one or more facilities is less than the rate to 44906
which it is entitled, the department shall increase the rate. If 44907
the department has paid the incorrect rate for a period of time, 44908
the department shall pay the facility the difference between the 44909
amount it was paid for that period and the amount it should have 44910
been paid. 44911

(2) The rules shall provide that during a fiscal year, the 44912
department, by means of the rate reconsideration process, may 44913
increase a facility's rate as calculated under sections 5111.23 to 44914
5111.28 of the Revised Code if the facility demonstrates that its 44915
actual, allowable costs have increased because of extreme 44916
circumstances. A facility may qualify for a rate increase only if 44917
its per diem, actual, allowable costs have increased to a level 44918
that exceeds its total rate, including any efficiency incentive 44919
and return on equity payment. The rules shall specify the 44920
circumstances that would justify a rate increase under division 44921
(A)(2) of this section. In the case of nursing facilities, the 44922
rules shall provide that the extreme circumstances include 44923
increased security costs for an inner-city nursing facility and an 44924
increase in workers' compensation experience rating of greater 44925
than five per cent for a facility that has an appropriate claims 44926

management program but do not include a change of ownership that 44927
results from bankruptcy, foreclosure, or findings of violations of 44928
certification requirements by the department of health. In the 44929
case of intermediate care facilities for the mentally retarded, 44930
the rules shall provide that the extreme circumstances include, 44931
but are not limited to, renovations approved under division (D) of 44932
section 5111.251 of the Revised Code, an increase in workers' 44933
compensation experience rating of greater than five per cent for a 44934
facility that has an appropriate claims management program, 44935
increased security costs for an inner-city facility, and a change 44936
of ownership that results from bankruptcy, foreclosure, or 44937
findings of violations of certification requirements by the 44938
department of health. An increase under division (A)(2) of this 44939
section is subject to any rate limitations or maximum rates 44940
established by sections 5111.23 to 5111.28 of the Revised Code for 44941
specific cost centers. Any rate increase granted under division 44942
(A)(2) of this section shall take effect on the first day of the 44943
first month after the department receives the request. 44944

(3) The rules shall provide that the department, through the 44945
rate reconsideration process, may increase a facility's rate as 44946
calculated under sections 5111.23 to 5111.28 of the Revised Code 44947
if the department, in its sole discretion, determines that the 44948
rate as calculated under those sections works an extreme hardship 44949
on the facility. 44950

(4) The rules shall provide that when beds certified for the 44951
medical assistance program are added to an existing facility, 44952
replaced at the same site, or subject to a change of ownership or 44953
lease, the department, through the rate reconsideration process, 44954
shall increase the facility's rate for capital costs 44955
proportionately, as limited by any applicable limitation under 44956
section 5111.25 or 5111.251 of the Revised Code, to account for 44957
the costs of the beds that are added, replaced, or subject to a 44958

change of ownership or lease. The department shall make this 44959
increase one month after the first day of the month after the 44960
department receives sufficient documentation of the costs. Any 44961
rate increase granted under division (A)(4) of this section after 44962
June 30, 1993, shall remain in effect until the effective date of 44963
a rate calculated under section 5111.25 or 5111.251 of the Revised 44964
Code that includes costs incurred for a full calendar year for the 44965
bed addition, bed replacement, or change of ownership or lease. 44966
The facility shall report double accumulated depreciation in an 44967
amount equal to the depreciation included in the rate adjustment 44968
on its cost report for the first year of operation. During the 44969
term of any loan used to finance a project for which a rate 44970
adjustment is granted under division (A)(4) of this section, if 44971
the facility is operated by the same provider, the facility shall 44972
subtract from the interest costs it reports on its cost report an 44973
amount equal to the difference between the following: 44974

(a) The actual, allowable interest costs for the loan during 44975
the calendar year for which the costs are being reported; 44976

(b) The actual, allowable interest costs attributable to the 44977
loan that were used to calculate the rates paid to the facility 44978
during the same calendar year. 44979

(5) The department's decision at the conclusion of the 44980
reconsideration process shall not be subject to any administrative 44981
proceedings under Chapter 119. or any other provision of the 44982
Revised Code. 44983

(B) Any All of the following are subject to an adjudication 44984
conducted in accordance with Chapter 119. of the Revised Code: 44985

(1) Any audit disallowance that the department makes as the 44986
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 44987

(2) Any adverse finding that results from an exception review 44988
of resident assessment information conducted under ~~that~~ section 44989

5111.27 of the Revised Code after the effective date of the 44990
facility's rate that is based on the assessment information, ~~and~~ 44991
~~any~~ 44992

(3) Any penalty the department imposes under division (C) of 44993
section 5111.28 of the Revised Code ~~shall be subject to an~~ 44994
~~adjudication conducted in accordance with Chapter 119. or section~~ 44995
5111.684 of the Revised Code. 44996

Sec. 5111.30. The department of job and family services shall 44997
terminate the provider agreement with an operator of a nursing 44998
facility or intermediate care facility for the mentally retarded 44999
that does not comply with the requirements of section 3721.071 of 45000
the Revised Code for the installation of fire extinguishing and 45001
fire alarm systems. 45002

Sec. 5111.31. (A) Every provider agreement with an operator 45003
of a nursing facility or intermediate care facility for the 45004
mentally retarded shall: 45005

(1) Prohibit the facility from failing or refusing to retain 45006
as a patient any person because the person is, becomes, or may, as 45007
a patient in the facility, become a recipient of assistance under 45008
the medical assistance program. For the purposes of this division, 45009
a recipient of medical assistance who is a patient in a facility 45010
shall be considered a patient in the facility during any hospital 45011
stays totaling less than twenty-five days during any twelve-month 45012
period. Recipients who have been identified by the department of 45013
job and family services or its designee as requiring the level of 45014
care of an intermediate care facility for the mentally retarded 45015
shall not be subject to a maximum period of absences during which 45016
they are considered patients if prior authorization of the 45017
department for visits with relatives and friends and participation 45018
in therapeutic programs is obtained under rules adopted under 45019

section 5111.02 of the Revised Code. 45020

(2) Include any part of the facility that meets standards for 45021
certification of compliance with federal and state laws and rules 45022
for participation in the medical assistance program, except that 45023
nursing facilities that, during the period beginning July 1, 1987, 45024
and ending July 1, 1993, added beds licensed as nursing home beds 45025
under Chapter 3721. of the Revised Code are not required to 45026
include those beds under a provider agreement unless otherwise 45027
required by federal law. Once added to the provider agreement, 45028
however, those nursing home beds may not be removed unless the 45029
facility withdraws from the medical assistance program in its 45030
entirety. 45031

(3) Prohibit the facility from discriminating against any 45032
patient on the basis of race, color, sex, creed, or national 45033
origin. 45034

(4) Except as otherwise prohibited under section 5111.55 of 45035
the Revised Code, prohibit the facility from failing or refusing 45036
to accept a patient because the patient is, becomes, or may, as a 45037
patient in the facility, become a recipient of assistance under 45038
the medical assistance program if less than eighty per cent of the 45039
patients in the facility are recipients of medical assistance. 45040

(B) Nothing in this section shall bar any religious or 45041
denominational nursing facility or intermediate care facility for 45042
the mentally retarded that is operated, supervised, or controlled 45043
by a religious organization from giving preference to persons of 45044
the same religion or denomination. Nothing in this section shall 45045
bar any facility from giving preference to persons with whom it 45046
has contracted to provide continuing care. 45047

(C) Nothing in this section shall bar any county home 45048
organized under Chapter 5155. of the Revised Code from admitting 45049
residents exclusively from the county in which the county home is 45050

located. 45051

(D) No operator of a nursing facility or intermediate care 45052
facility for the mentally retarded with which a provider agreement 45053
is in effect shall violate the provider contract obligations 45054
imposed under this section. 45055

(E) Nothing in divisions (A) and (B) of this section shall 45056
bar any nursing facility or intermediate care facility for the 45057
mentally retarded from retaining patients who have resided in the 45058
facility for not less than one year as private pay patients and 45059
who subsequently become recipients of assistance under the 45060
medicaid program, but refusing to accept as a patient any person 45061
who is or may, as a patient in the facility, become a recipient of 45062
assistance under the medicaid program, if all of the following 45063
apply: 45064

(1) The facility does not refuse to retain any patient who 45065
has resided in the facility for not less than one year as a 45066
private pay patient because the patient becomes a recipient of 45067
assistance under the medicaid program, except as necessary to 45068
comply with division (E)(2) of this section; 45069

(2) The number of medicaid recipients retained under this 45070
division does not at any time exceed ten per cent of all the 45071
patients in the facility; 45072

(3) On July 1, 1980, all the patients in the facility were 45073
private pay patients. 45074

Sec. 5111.34. (A) There is hereby created the nursing 45075
facility reimbursement study council consisting of the following 45076
seventeen members: 45077

(1) The director of job and family services; 45078

(2) The deputy director of the office of Ohio health plans of 45079
the department of job and family services; 45080

(3) An employee of the governor's office;	45081
(4) The director of health;	45082
(5) The director of aging;	45083
(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;	45084 45085 45086
(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;	45087 45088 45089
(8) Two representatives of each of the following organizations, appointed by their respective governing bodies:	45090 45091
(a) The Ohio academy of nursing homes;	45092
(b) The association of Ohio philanthropic homes and housing for the aging;	45093 45094
(c) The Ohio health care association.	45095
Initial appointments of members described in divisions (A)(6), (7), and (8) 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.</u> Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after the effective date of this amendment <u>March 14, 2002</u> .	45096 45097 45098 45099 45100 45101 45102
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) of this section shall serve at the pleasure of the official or governing body appointing the member. The members described in divisions (A)(1), (2), (3), (4), and (5) of this section shall serve for as long as they hold the position that qualifies them for membership on the council. The speaker of the house of representatives and the president of the senate	45103 45104 45105 45106 45107 45108 45109 45110

jointly shall appoint the chairperson of the council. Members of 45111
the council shall serve without compensation. 45112

(B) The council shall review, on an ongoing basis, the system 45113
established by sections 5111.20 to 5111.32 of the Revised Code for 45114
reimbursing nursing facilities under the medical assistance 45115
program. The council shall recommend any changes it determines are 45116
necessary. The council shall issue a report of its activities, 45117
findings, and recommendations to the governor, the speaker of the 45118
house of representatives, and the president of the senate not 45119
later than July 30, 2004. Thereafter, the council periodically 45120
shall report its activities, findings, and recommendations to the 45121
governor, the speaker of the house of representatives, and the 45122
president of the senate. 45123

(C) The council shall meet quarterly. Its first quarterly 45124
meeting after the effective date of this amendment shall be held 45125
not later than August 1, 2003. 45126

Sec. 5111.65. As used in sections 5111.65 to 5111.6810 of the 45127
Revised Code: 45128

(A) "Change of operator" means an entering operator becoming 45129
the operator of a nursing facility or intermediate care facility 45130
for the mentally retarded in the place of the exiting operator. 45131

(1) Actions that constitute a change of operator include, but 45132
are not limited to, the following: 45133

(a) A change in an exiting operator's form of legal 45134
organization, including the formation of a partnership or 45135
corporation from a sole proprietorship; 45136

(b) A transfer of all the exiting operator's ownership 45137
interest in the operation of the facility to the entering 45138
operator, regardless of whether ownership of any or all of the 45139
real property or personal property associated with the facility is 45140

<u>also transferred;</u>	45141
<u>(c) A lease of the facility to the entering operator or the exiting operator's termination of the lease;</u>	45142
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<u>(d) If the exiting operator is a partnership, dissolution of the partnership;</u>	45144
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<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	45146
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<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	45148
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<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	45150
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<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>	45152
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<u>(2) The following, alone, do not constitute a change of operator:</u>	45156
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<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>	45158
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<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;</u>	45162
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<u>(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.</u>	45167
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(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

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(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

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(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

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(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

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(F) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs.

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

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(1) 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 change of operator;

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(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;

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(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

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(4) An operator of a nursing facility that is undergoing or

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has undergone a voluntary withdrawal of participation. 45201

(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: 45202

(1) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 45203
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(2) The facility's residents relocating to another of the operator's facilities; 45208
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(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; 45211
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(4) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 45218
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(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. 45220
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(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 45223
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(J) "Intermediate care facility for the mentally retarded," "nursing home," "operator," and "owner" have the same meanings as in section 5111.20 of the Revised Code. 45225
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(K) "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 45228
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retarded for the provision of nursing facility services or 45231
intermediate care facility services for the mentally retarded 45232
under the medical assistance program. 45233

(L) "Voluntary termination" means an operator's voluntary 45234
election to terminate the participation of an intermediate care 45235
facility for the mentally retarded in the medicaid program but to 45236
continue to provide service of the type provided by a residential 45237
facility as defined in section 5123.19 of the Revised Code. 45238

(M) "Voluntary withdrawal of participation" means an 45239
operator's voluntary election to terminate the participation of a 45240
nursing facility in the medicaid program but to continue to 45241
provide service of the type provided by nursing facilities. 45242

Sec. 5111.66. An exiting operator or owner of a nursing 45243
facility or intermediate care facility for the mentally retarded 45244
participating in the medicaid program shall provide the department 45245
of job and family services written notice of a facility closure, 45246
voluntary termination, or voluntary withdrawal of participation 45247
not less than ninety days before the effective date of the 45248
facility closure, voluntary termination, or voluntary withdrawal 45249
of participation. The written notice shall include all of the 45250
following: 45251

(A) The name of the exiting operator and, if any, the exiting 45252
operator's authorized agent; 45253

(B) The name of the nursing facility or intermediate care 45254
facility for the mentally retarded that is the subject of the 45255
facility closure, voluntary termination, or voluntary withdrawal 45256
of participation; 45257

(C) The exiting operator's medicaid provider agreement 45258
number; 45259

(D) The effective date of the facility closure, voluntary 45260

<u>termination, or voluntary withdrawal of participation;</u>	45261
<u>(E) The signature of the exiting operator's or owner's representative.</u>	45262 45263
<u>Sec. 5111.661. 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 undergoes a voluntary withdrawal of participation.</u>	45264 45265 45266 45267
<u>Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. The written notice shall include all of the following:</u>	45268 45269 45270 45271 45272 45273 45274 45275 45276 45277 45278 45279 45280
<u>(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;</u>	45281 45282
<u>(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;</u>	45283 45284 45285
<u>(3) The exiting operator's medicaid provider agreement number;</u>	45286 45287
<u>(4) The name of the entering operator;</u>	45288
<u>(5) The effective date of the change of operator;</u>	45289

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action; 45290
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(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step; 45293
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(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator; 45296
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(9) The signature of the exiting operator's or owner's representative. 45299
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(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: 45301
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(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; 45305
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(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. 45311
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Sec. 5111.671. 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 45317
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of operator if all of the following requirements are met: 45320

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section. 45321
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(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator. 45324
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(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code. 45329
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Sec. 5111.672. (A) 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 date determined under division (B) of this section if all of the following are the case: 45331
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(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code. 45335
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(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to change of operator. 45337
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(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both. 45341
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(4) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code. 45346
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(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as 45348
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follows: 45350

(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, make the withholding required by section 5111.681 of the Revised Code, and withhold the final payment to the exiting operator until the following: 45351
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(a) Ninety days after the exiting operator submits to the department a properly completed cost report under section 5111.683 of the Revised Code; 45356
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(b) One hundred eighty days after the department waives the cost report requirement of section 5111.683 of the Revised Code. 45359
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(2) The effective date shall be not earlier than the later of the effective date of the change of operator or the date that the exiting operator or owner and entering operator comply with section 5111.67 of the Revised Code. 45361
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(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section: 45365
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(a) Forty-five days if the change of operator does not entail the relocation of residents; 45368
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(b) Ninety days if the change of operator entails the relocation of residents. 45370
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Sec. 5111.673. A provider agreement that the department of job and family services enters into with an entering operator under section 5111.671 or 5111.672 of the Revised Code shall satisfy all of the following requirements: 45372
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(A) Comply with all applicable federal statutes and regulations; 45376
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(B) Comply with section 5111.22 of the Revised Code and all 45378

<u>other applicable state statutes and rules;</u>	45379
<u>(C) Include all the terms and conditions of the exiting</u>	45380
<u>operator's provider agreement, including, but not limited to, all</u>	45381
<u>of the following:</u>	45382
<u>(1) Any plan of correction;</u>	45383
<u>(2) Compliance with health and safety standards;</u>	45384
<u>(3) Compliance with the ownership and financial interest</u>	45385
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	45386
<u>(4) Compliance with the civil rights requirements of 45</u>	45387
<u>C.F.R. parts 80, 84, and 90;</u>	45388
<u>(5) Compliance with additional requirements imposed by the</u>	45389
<u>department;</u>	45390
<u>(6) Any sanctions relating to remedies for violation of the</u>	45391
<u>provider agreement, including deficiencies, compliance periods,</u>	45392
<u>accountability periods, monetary penalties, notification for</u>	45393
<u>correction of contract violations, and history of deficiencies.</u>	45394
<u>(D) Require the entering operator to assume the exiting</u>	45395
<u>operator's remaining debt to the department and United States</u>	45396
<u>centers for medicare and medicaid services that the department is</u>	45397
<u>unable to collect from the exiting operator;</u>	45398
<u>(E) Have a different provider agreement number than the</u>	45399
<u>exiting operator's provider agreement.</u>	45400
<u>Sec. 5111.674. In the case of a change of operator, the</u>	45401
<u>exiting operator shall be considered to be the operator of the</u>	45402
<u>nursing facility or intermediate care facility for the mentally</u>	45403
<u>retarded for purposes of the medicaid program, including medicaid</u>	45404
<u>payments, until the effective date of the entering operator's</u>	45405
<u>provider agreement if the provider agreement is entered into under</u>	45406
<u>section 5111.671 or 5111.672 of the Revised Code.</u>	45407

Sec. 5111.675. The department of job and family services may 45408
enter into a provider agreement as provided in section 5111.22 of 45409
the Revised Code, rather than section 5111.671 or 5111.672 of the 45410
Revised Code, with an entering operator if the entering operator 45411
does not agree to a provider agreement that satisfies the 45412
requirements of division (C) or (D) of section 5111.673 of the 45413
Revised Code. The department may not enter into the provider 45414
agreement unless the department of health certifies the nursing 45415
facility or intermediate care facility for the mentally retarded 45416
under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 45417
42 U.S.C.A. 1396, as amended. The effective date of the provider 45418
agreement shall not precede any of the following: 45419

(A) The date that the department of health certifies the 45420
facility; 45421

(B) The effective date of the change of operator; 45422

(C) The date the requirement of section 5111.67 of the 45423
Revised Code is satisfied. 45424

Sec. 5111.676. The director of job and family services may 45425
adopt rules in accordance with Chapter 119. of the Revised Code 45426
governing adjustments to the medicaid reimbursement rate for a 45427
nursing facility or intermediate care facility for the mentally 45428
retarded that undergoes a change of operator. No rate adjustment 45429
resulting from a change of operator shall be effective before the 45430
effective date of the entering operator's provider agreement. This 45431
is the case regardless of whether the provider agreement is 45432
entered into under section 5111.671, section 5111.672, or, 45433
pursuant to section 5111.675, section 5111.22 of the Revised Code. 45434

Sec. 5111.677. Neither of the following shall affect the 45435
department of job and family services' determination of whether or 45436

when a change of operator occurs or the effective date of an 45437
entering operator's provider agreement under section 5111.671, 45438
section 5111.672, or, pursuant to section 5111.675, section 45439
5111.22 of the Revised Code: 45440

(A) The department of health's determination that a change of 45441
operator has or has not occurred for purposes of licensure under 45442
Chapter 3721. of the Revised Code; 45443

(B) The department of mental retardation and developmental 45444
disabilities' determination that a change of operator has or has 45445
not occurred for purposes of licensure under section 5123.19 of 45446
the Revised Code. 45447

Sec. 5111.68. (A) On receipt of a written notice under 45448
section 5111.66 of the Revised Code of a facility closure, 45449
voluntary termination, or voluntary withdrawal of participation or 45450
a written notice under section 5111.67 of the Revised Code of a 45451
change of operator, the department of job and family services 45452
shall determine the amount of any overpayments made under the 45453
medicaid program to the exiting operator, including overpayments 45454
the exiting operator disputes, and other actual and potential 45455
debts the exiting operator owes or may owe to the department and 45456
United States centers for medicare and medicaid services under the 45457
medicaid program. In determining the exiting operator's other 45458
actual and potential debts to the department under the medicaid 45459
program, the department shall include all of the following that 45460
the department determines is applicable: 45461

(1) Refunds due the department under division (G) of section 45462
5111.25 of the Revised Code or division (H) of section 5111.251 of 45463
the Revised Code; 45464

(2) Interest owed to the department and United States centers 45465
for medicare and medicaid services; 45466

(3) Final civil monetary and other penalties for which all 45467
right of appeal has been exhausted; 45468

(4) Third-party liabilities; 45469

(5) Money owed the department and United States centers for 45470
medicare and medicaid services from any outstanding final fiscal 45471
audit, including a final fiscal audit for the last fiscal year or 45472
portion thereof in which the exiting operator participated in the 45473
medicaid program. 45474

(B) If the department is unable to determine the amount of 45475
the overpayments and other debts for any period before the 45476
effective date of the entering operator's provider agreement or 45477
the effective date of the facility closure, voluntary termination, 45478
or voluntary withdrawal of participation, the department shall 45479
make a reasonable estimate of the overpayments and other debts for 45480
the period. The department shall make the estimate using 45481
information available to the department, including prior 45482
determinations of overpayments and other debts. 45483

Sec. 5111.681. (A) The department of job and family services 45484
shall withhold the greater of the following from payment due an 45485
exiting operator under the medicaid program: 45486

(1) The total amount of any overpayments made under the 45487
medicaid program to the exiting operator, including overpayments 45488
the exiting operator disputes, and other actual and potential 45489
debts, including any unpaid penalties, the exiting operator owes 45490
or may owe to the department and United States centers for 45491
medicare and medicaid services under the medicaid program; 45492

(2) An amount equal to the average amount of monthly payments 45493
to the exiting operator under the medicaid program for the 45494
twelve-month period immediately preceding the month that includes 45495
the last day the exiting operator's provider agreement is in 45496

effect or, in the case of a voluntary withdrawal of participation, 45497
the effective date of the voluntary withdrawal of participation. 45498

(B) The department may transfer the amount withheld under 45499
division (A) of this section to an escrow account with a bank, 45500
trust company, or savings and loan association. 45501

(C) If payment due an exiting operator under the medicaid 45502
program is less than the amount the department is required to 45503
withhold under division (A) of this section, the department shall 45504
require that the exiting operator provide the difference in the 45505
form of a security. 45506

(D) The department shall release to the exiting operator the 45507
actual amount withheld under division (A) of this section if the 45508
department allows the exiting operator to provide the department a 45509
security in the amount the department is required to withhold 45510
under division (A) of this section, less any of that amount 45511
provided to the department in the form of a security under 45512
division (C) of this section. 45513

(E) Security provided to the department under division (C) or 45514
(D) of this section shall be in either or both of the following 45515
forms: 45516

(1) In the case of a change of operator, the entering 45517
operator's nontransferable, unconditional, written agreement to 45518
pay the department any debt the exiting operator owes the 45519
department under the medicaid program; 45520

(2) In the case of a change of operator, facility closure, 45521
voluntary termination, or voluntary withdrawal of participation, a 45522
form of collateral or security acceptable to the department that 45523
satisfies both of the following conditions: 45524

(a) Is at least equal to the amount the department is 45525
required to withhold under division (A) of this section, less any 45526
amounts the department has received through actual withholding or 45527

one or more other forms of security under this division; 45528

(b) Is payable to the department if the exiting operator 45529
fails to pay any debt owed the department under the medicaid 45530
program within fifteen days of receiving the department's written 45531
demand for payment of the debt. 45532

Sec. 5111.682. An entering operator that provides the 45533
department of job and family services a security in the form 45534
provided by division (E)(1) of section 5111.681 of the Revised 45535
Code shall also provide the department a list of the entering 45536
operator's assets and liabilities. The department shall determine 45537
whether the assets are sufficient for the purpose of the security. 45538

Sec. 5111.683. (A) Except as provided in division (B) of this 45539
section, an exiting operator shall file with the department of job 45540
and family services a cost report not later than ninety days after 45541
the last day the exiting operator's provider agreement is in 45542
effect or, in the case of a voluntary withdrawal of participation, 45543
the effective date of the voluntary withdrawal of participation. 45544
The cost report shall cover the period that begins with the day 45545
after the last day covered by the operator's most recent previous 45546
cost report required by section 5111.26 of the Revised Code and 45547
ends on the last day the exiting operator's provider agreement is 45548
in effect or, in the case of a voluntary withdrawal of 45549
participation, the effective date of the voluntary withdrawal of 45550
participation. The cost report shall include, as applicable, all 45551
of the following: 45552

(1) The sale price of the nursing facility or intermediate 45553
care facility for the mentally retarded; 45554

(2) A final depreciation schedule that shows which assets are 45555
transferred to the buyer and which assets are not transferred to 45556
the buyer; 45557

(3) Any other information the department requires. 45558

(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. 45559
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Sec. 5111.684. If an exiting operator required by section 5111.683 of the Revised Code to file a cost report with the department of job and family services fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late. 45562
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Sec. 5111.685. The department of job and family services may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5111.26 and 5111.683 of the Revised Code. 45571
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Sec. 5111.686. The department of job and family services shall determine the actual amount of debt an exiting operator owes the department under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue a report on this matter not later than ninety days after the date the exiting operator files the properly completed cost report required by section 5111.683 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, one hundred eighty days after the date the department waives the cost report requirement. The report shall include the department's findings 45576
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and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. Only the parts of the report that are subject to an adjudication as specified in division (B) of section 5111.29 of the Revised Code are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.687. The department of job and family services shall release the actual amount withheld under division (A) of section 5111.681 of the Revised Code, and any security provided to the department under that section, less any amount the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, as follows:

(A) Ninety-one days after the date the exiting operator files a properly completed cost report required by section 5111.683 of the Revised Code unless the department issues the report required by section 5111.686 of the Revised Code not later than ninety days after the date the exiting operator files the properly completed cost report;

(B) Not later than fifteen days after the exiting operator agrees to a final fiscal audit resulting from the report required by section 5111.686 of the Revised Code if the department issues the report not later than ninety days after the date the exiting operator files a properly completed cost report required by section 5111.683 of the Revised Code;

(C) One hundred eighty-one days after the date the department waives the cost report requirement of section 5111.683 of the Revised Code unless the department issues the report required by section 5111.686 of the Revised Code not later than one hundred eighty days after the date the department waives the cost report

requirement; 45619

(D) Not later than fifteen days after the exiting operator 45620
agrees to a final fiscal audit resulting from the report required 45621
by section 5111.686 of the Revised Code if the department issues 45622
the report not later than one hundred eighty days after the date 45623
the department waives the cost report requirement of section 45624
5111.683 of the Revised Code. 45625

Sec. 5111.688. If the actual amount the department of job and 45626
family services withholds from an exiting operator under division 45627
(A) of section 5111.681 of the Revised Code, and any security 45628
provided to the department under that section, is inadequate to 45629
pay the exiting operator's debt to the department and United 45630
States centers for medicare and medicaid services under the 45631
medicaid program or the department is required to release the 45632
withholdings and security under section 5111.687 of the Revised 45633
Code before the department is paid the exiting operator's debt, 45634
the department shall collect the debt as follows: 45635

(A) From the exiting operator; 45636

(B) From the entering operator if the department is unable to 45637
collect the entire debt from the exiting operator and the entering 45638
operator entered into a provider agreement under section 5111.671 45639
or 5111.672 of the Revised Code. The department may collect the 45640
remaining debt by withholding the amount due from payments to the 45641
entering operator under the medicaid program. The department may 45642
enter into an agreement with the entering operator under which the 45643
entering operator pays the remaining debt, with applicable 45644
interest, in installments from withholdings from the entering 45645
operator's payments under the medicaid program. 45646

Sec. 5111.689. The department of job and family services, at 45647
its sole discretion, may release the amount withheld under 45648

division (A) of section 5111.681 of the Revised Code, and any 45649
security provided to the department under that section, if the 45650
exiting operator submits to the department written notice of a 45651
postponement of a change of operator, facility closure, voluntary 45652
termination, or voluntary withdrawal of participation and the 45653
transactions leading to the change of operator, facility closure, 45654
voluntary termination, or voluntary withdrawal of participation 45655
are postponed for at least thirty days but less than ninety days 45656
after the date originally proposed for the change of operator, 45657
facility closure, voluntary termination, or voluntary withdrawal 45658
of participation as reported in the written notice required by 45659
section 5111.66 or 5111.67 of the Revised Code. The department 45660
shall release the amount withheld and security if the exiting 45661
operator submits to the department written notice of a 45662
cancellation or postponement of a change of operator, facility 45663
closure, voluntary termination, or voluntary withdrawal of 45664
participation and the transactions leading to the change of 45665
operator, facility closure, voluntary termination, or voluntary 45666
withdrawal of participation are canceled, or postponed for more 45667
than ninety days after the date originally proposed for the change 45668
of operator, facility closure, voluntary termination, or voluntary 45669
withdrawal of participation as reported in the written notice 45670
required by section 5111.66 or 5111.67 of the Revised Code. 45671

After the department receives a written notice regarding a 45672
cancellation or postponement of a facility closure, voluntary 45673
termination, or voluntary withdrawal of participation, the exiting 45674
operator or owner shall provide new written notice to the 45675
department under section 5111.66 of the Revised Code regarding any 45676
transactions leading to a facility closure, voluntary termination, 45677
or voluntary withdrawal of participation at a future time. After 45678
the department receives a written notice regarding a cancellation 45679
or postponement of a change of operator, the exiting operator or 45680
owner and entering operator shall provide new written notice to 45681

the department under section 5111.67 of the Revised Code regarding 45682
any transactions leading to a change of operator at a future time. 45683

Sec. 5111.6810. The director of job and family services may 45684
adopt rules in accordance with Chapter 119. of the Revised Code to 45685
implement sections 5111.65 to 5111.6810 of the Revised Code, 45686
including rules applicable to an exiting operator that provides 45687
written notification under section 5111.66 of the Revised Code of 45688
a voluntary withdrawal of participation. Rules adopted under this 45689
section shall comply with section 1919(c)(2)(F) of the "Social 45690
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 45691
regarding restrictions on transfers or discharges of nursing 45692
facility residents in the case of a voluntary withdrawal of 45693
participation. The rules may prescribe a medicaid reimbursement 45694
methodology and other procedures that are applicable after the 45695
effective date of a voluntary withdrawal of participation that 45696
differ from the reimbursement methodology and other procedures 45697
that would otherwise apply. 45698

Sec. 5111.81. There is hereby established the pharmacy and 45699
therapeutics committee of the department of job and family 45700
services. The committee shall consist of eight members and shall 45701
be appointed by the director of job and family services. The 45702
membership of the committee shall include: two pharmacists 45703
licensed under Chapter 4729. of the Revised Code; two doctors of 45704
medicine and two doctors of osteopathy licensed under Chapter 45705
4731. of the Revised Code; a registered nurse licensed under 45706
Chapter 4723. of the Revised Code; and a pharmacologist who has a 45707
doctoral degree. The committee shall elect one of its members as 45708
chairperson. 45709

The committee shall accept any written or oral testimony 45710
presented at any public meeting of the committee. 45711

Sec. 5111.85. (A) As used in this section, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a ~~managed~~ care management system established under section ~~5111.17~~ 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

(1) Eligibility requirements for the medicaid waiver components;

(2) The type, amount, duration, and scope of services the medicaid waiver components provide;

(3) The conditions under which the medicaid waiver components cover services;

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the medicaid waiver components pay for services;

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(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.

(8) Other policies necessary for the efficient administration of the medicaid waiver components. 45741
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(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. 45743
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(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 the violator in accordance with rules adopted under division (B) of this section. 45747
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Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 45758
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(B) The director of job and family services may apply to the United States secretary of health and human services for ~~one~~ both of the following: 45762
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(1) One or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded; 45765
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(2) One or more medicaid waivers that operate for three to 45770

four years each and under which home and community-based services 45771
are provided in the form of either or both of the following: 45772

(a) Early intervention services for children under three 45773
years of age that are provided or arranged by county boards of 45774
mental retardation and developmental disabilities; 45775

(b) Therapeutic services for children with autism. Before the 45776
director applies 45777

(C) The director of mental retardation and developmental 45778
disabilities may request that the director of job and family 45779
services apply for one or more medicaid waivers under this 45780
section. 45781

(D) Before applying for a waiver under this section, the 45782
director of job and family services shall seek, accept, and 45783
consider public comments. 45784

Sec. 5111.871. The department of job and family services 45785
shall enter into a contract with the department of mental 45786
retardation and developmental disabilities under section 5111.91 45787
of the Revised Code with regard to the ~~component~~ components of the 45788
medicaid program established by the department of job and family 45789
services under ~~one or more the medicaid~~ waivers from the United 45790
States ~~secretary of health and human services pursuant to section~~ 45791
~~1915 of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 45792
~~U.S.C.A. 1396n, as amended, to provide eligible medicaid~~ 45793
~~recipients with home and community based services as an~~ 45794
~~alternative to placement in an intermediate care facility for the~~ 45795
~~mentally retarded~~ sought under section 5111.87 of the Revised 45796
Code. The contract shall provide for the department of mental 45797
retardation and developmental disabilities to administer the 45798
~~component~~ components in accordance with the terms of the ~~waiver~~ 45799
wavers. The directors of job and family services and mental 45800
retardation and developmental disabilities shall adopt rules in 45801

accordance with Chapter 119. of the Revised Code governing the 45802
~~component~~ components. 45803

If the department of mental retardation and developmental 45804
disabilities or the department of job and family services denies 45805
an individual's application for home and community-based services 45806
provided under ~~this~~ any of these medicaid ~~component~~ components, 45807
the department that denied the services shall give timely notice 45808
to the individual that the individual may request a hearing under 45809
section 5101.35 of the Revised Code. 45810

The departments of mental retardation and developmental 45811
disabilities and job and family services may approve, reduce, 45812
deny, or terminate a service included in the individualized 45813
service plan developed for a medicaid recipient eligible for home 45814
and community-based services provided under ~~this~~ any of these 45815
medicaid ~~component~~ components. The departments shall consider the 45816
recommendations a county board of mental retardation and 45817
developmental disabilities makes under division (A)(1)(c) of 45818
section 5126.055 of the Revised Code. If either department 45819
approves, reduces, denies, or terminates a service, that 45820
department shall give timely notice to the medicaid recipient that 45821
the recipient may request a hearing under section 5101.35 of the 45822
Revised Code. 45823

If supported living or residential services, as defined in 45824
section 5126.01 of the Revised Code, are to be provided under ~~this~~ 45825
~~component~~ any of these components, any person or government entity 45826
with a current, valid medicaid provider agreement and a current, 45827
valid license under section 5123.19 or certificate under section 45828
5123.045 or 5126.431 of the Revised Code may provide the services. 45829

Sec. 5111.872. When the department of mental retardation and 45830
developmental disabilities allocates enrollment numbers to a 45831
county board of mental retardation and developmental disabilities 45832

for home and community-based services provided under the component 45833
of the medicaid program that the department administers under 45834
section 5111.871 of the Revised Code, the department shall 45835
consider all of the following: 45836

(A) The number of individuals with mental retardation or 45837
other developmental disability who are on a waiting list the 45838
county board establishes under division (C) of section 5126.042 of 45839
the Revised Code for those services and are given priority on the 45840
waiting list pursuant to division (D) or (E) of that section; 45841

(B) The implementation component required by division (A)(4) 45842
of section 5126.054 of the Revised Code of the county board's plan 45843
approved under section 5123.046 of the Revised Code; 45844

(C) Anything else the department considers necessary to 45845
enable county boards to provide those services to individuals in 45846
accordance with the priority requirements of ~~division~~ divisions 45847
(D) and (E) of section 5126.042 of the Revised Code. 45848

Sec. 5111.873. (A) Not later than the effective date of the 45849
first of any medicaid waivers the United States secretary of 45850
health and human services grants pursuant to a request made under 45851
section 5111.87 of the Revised Code, the director of job and 45852
family services shall adopt rules in accordance with Chapter 119. 45853
of the Revised Code establishing statewide fee schedules for home 45854
and community-based services provided under the component of the 45855
medicaid program authorized by that waiver that the department of 45856
mental retardation and developmental disabilities administers 45857
under section 5111.871 of the Revised Code. The rules shall 45858
provide for all of the following: 45859

(1) The department of mental retardation and developmental 45860
disabilities arranging for the initial and ongoing collection of 45861
cost information from a comprehensive, statistically valid sample 45862
of persons and government entities providing the services at the 45863

time the information is obtained; 45864

(2) The collection of consumer-specific information through 45865
an assessment instrument the department of mental retardation and 45866
developmental disabilities shall provide to the department of job 45867
and family services; 45868

(3) With the information collected pursuant to divisions 45869
(A)(1) and (2) of this section, an analysis of that information, 45870
and other information the director determines relevant, methods 45871
and standards for calculating the fee schedules that do all of the 45872
following: 45873

(a) Assure that the fees are consistent with efficiency, 45874
economy, and quality of care; 45875

(b) Consider the intensity of consumer resource need; 45876

(c) Recognize variations in different geographic areas 45877
regarding the resources necessary to assure the health and welfare 45878
of consumers; 45879

(d) Recognize variations in environmental supports available 45880
to consumers. 45881

(B) As part of the process of adopting rules under this 45882
section, the director shall consult with the director of mental 45883
retardation and developmental disabilities, representatives of 45884
county boards of mental retardation and developmental 45885
disabilities, persons who provide the home and community-based 45886
services, and other persons and government entities the director 45887
identifies. 45888

(C) The directors of job and family services and mental 45889
retardation and developmental disabilities shall review the rules 45890
adopted under this section at times they determine to ensure that 45891
the methods and standards established by the rules for calculating 45892
the fee schedules continue to do everything that division (A)(3) 45893

of this section requires. 45894

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following: 45895
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(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with; 45901
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(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with; 45904
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(C) How providers will be paid for providing the services; 45907

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including program oversight and quality assurance. 45908
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Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of mental health and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers. 45912
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Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of alcohol and drug addiction services and boards of 45919
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alcohol, drug addiction, and mental health services shall pay the 45923
nonfederal share of any medicaid payment to a provider for 45924
services under the component, or aspect of the component, the 45925
department of alcohol and drug addiction services administers. 45926

Sec. 5111.94. (A) As used in this section, "vendor offset" 45927
means a reduction of a medicaid payment to a medicaid provider to 45928
correct a previous, incorrect medicaid payment to that provider. 45929

(B) There is hereby created in the state treasury the health 45930
care services administration fund. Except as provided in division 45931
(C) of this section, all the following shall be deposited into the 45932
fund: 45933

(1) Amounts deposited into the fund pursuant to sections 45934
5111.92 and 5111.93 of the Revised Code; 45935

(2) The amount of the state share of all money the department 45936
of job and family services, in fiscal year 2003 and each fiscal 45937
year thereafter, recovers pursuant to a tort action under the 45938
department's right of recovery under section 5101.58 of the 45939
Revised Code that exceeds the state share of all money the 45940
department, in fiscal year 2002, recovers pursuant to a tort 45941
action under that right of recovery; 45942

(3) Subject to division (D) of this section, the amount of 45943
the state share of all money the department of job and family 45944
services, in fiscal year 2003 and each fiscal year thereafter, 45945
recovers through audits of medicaid providers that exceeds the 45946
state share of all money the department, in fiscal year 2002, 45947
recovers through such audits; 45948

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments 45949
on hospitals under section 5112.06 of the Revised Code and 45950
intergovernmental transfers by governmental hospitals under 45951
section 5112.07 of the Revised Code that are deposited into the 45952

fund in accordance with the law. 45953

(C) No funds shall be deposited into the health care services 45954
administration fund in violation of federal statutes or 45955
regulations. 45956

(D) In determining under division (B)(3) of this section the 45957
amount of money the department, in a fiscal year, recovers through 45958
audits of medicaid providers, the amount recovered in the form of 45959
vendor offset shall be excluded. 45960

(E) The director of job and family services shall use funds 45961
available in the health care services administration fund to pay 45962
for costs associated with the administration of the medicaid 45963
program. 45964

Sec. 5111.95. (A) As used in this section: 45965

(1) "Applicant" means a person who is under final 45966
consideration for employment or, after the effective date of this 45967
section, an existing employee with a waiver agency in a full-time, 45968
part-time, or temporary position that involves providing home and 45969
community-based waiver services to a person with disabilities. 45970
"Applicant" also means an existing employee with a waiver agency 45971
in a full-time, part-time, or temporary position that involves 45972
providing home and community-based waiver services to a person 45973
with disabilities after the effective date of this section. 45974

(2) "Criminal records check" has the same meaning as in 45975
section 109.572 of the Revised Code. 45976

(3) "Waiver agency" means a person or government entity that 45977
is not certified under the medicare program and is accredited by 45978
the community health accreditation program or the joint commission 45979
on accreditation of health care organizations or a company that 45980
provides home and community-based waiver services to persons with 45981
disabilities through any department of job and family services 45982

administered home and community-based waiver services. "Waiver agency" does not include a person or government entity that provides home and community-based waiver services through components of the medicaid program being administered by the department of mental retardation and developmental disabilities pursuant to a contract entered into with the department of job and family services under section 5111.871 of the Revised Code. 45983
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(4) "Home and community-based waiver services" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital. Home and community-based waiver services are approved by the county medical services section of the department of job and family services for specific populations and are not otherwise available under the medicaid state plan. 45990
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(B)(1) The chief administrator of a waiver agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request 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 chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant 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 chief administrator may request that the superintendent include information from the federal bureau of investigation in the 45997
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criminal records check. 46015

(2) A person required by division (B)(1) of this section to 46016
request a criminal records check shall do both of the following: 46017

(a) Provide to each applicant for whom a criminal records 46018
check request is required under division (B)(1) of this section a 46019
copy of the form prescribed pursuant to division (C)(1) of section 46020
109.572 of the Revised Code and a standard fingerprint impression 46021
sheet prescribed pursuant to division (C)(2) of that section, and 46022
obtain the completed form and impression sheet from the applicant; 46023

(b) Forward the completed form and impression sheet to the 46024
superintendent of the bureau of criminal identification and 46025
investigation. 46026

(3) An applicant provided the form and fingerprint impression 46027
sheet under division (B)(2)(a) of this section who fails to 46028
complete the form or provide fingerprint impressions shall not be 46029
employed in any position in a waiver agency for which a criminal 46030
records check is required by this section. 46031

(C)(1) Except as provided in rules adopted by the department 46032
of job and family services in accordance with division (F) of this 46033
section and subject to division (C)(2) of this section, no waiver 46034
agency shall employ a person in a position that involves providing 46035
home and community-based waiver services to persons with 46036
disabilities if the person has been convicted of or pleaded guilty 46037
to any of the following: 46038

(a) A violation of section 2903.01, 2903.02, 2903.03, 46039
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 46040
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 46041
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 46042
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 46043
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 46044
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 46045

2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 46046
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 46047
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 46048
Revised Code, felonious sexual penetration in violation of former 46049
section 2907.12 of the Revised Code, a violation of section 46050
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 46051
violation of section 2919.23 of the Revised Code that would have 46052
been a violation of section 2905.04 of the Revised Code as it 46053
existed prior to July 1, 1996, had the violation been committed 46054
prior to that date; 46055

(b) An existing or former law of this state, any other state, 46056
or the United States that is substantially equivalent to any of 46057
the offenses listed in division (C)(1)(a) of this section. 46058

(2)(a) A waiver agency may employ conditionally an applicant 46059
for whom a criminal records check request is required under 46060
division (B) of this section prior to obtaining the results of a 46061
criminal records check regarding the individual, provided that the 46062
agency shall request a criminal records check regarding the 46063
individual in accordance with division (B)(1) of this section not 46064
later than five business days after the individual begins 46065
conditional employment. 46066

(b) A waiver agency that employs an individual conditionally 46067
under authority of division (C)(2)(a) of this section shall 46068
terminate the individual's employment if the results of the 46069
criminal records check request under division (B) of this section, 46070
other than the results of any request for information from the 46071
federal bureau of investigation, are not obtained within the 46072
period ending sixty days after the date the request is made. 46073
Regardless of when the results of the criminal records check are 46074
obtained, if the results indicate that the individual has been 46075
convicted of or pleaded guilty to any of the offenses listed or 46076
described in division (C)(1) of this section, the agency shall 46077

terminate the individual's employment unless the agency chooses to 46078
employ the individual pursuant to division (F) of this section. 46079
Termination of employment under this division shall be considered 46080
just cause for discharge for purposes of division (D)(2) of 46081
section 4141.29 of the Revised Code if the individual makes any 46082
attempt to deceive the agency about the individual's criminal 46083
record. 46084

(D)(1) Each waiver agency shall pay to the bureau of criminal 46085
identification and investigation the fee prescribed pursuant to 46086
division (C)(3) of section 109.572 of the Revised Code for each 46087
criminal records check conducted pursuant to a request made under 46088
division (B) of this section. 46089

(2) A waiver agency may charge an applicant a fee not 46090
exceeding the amount the agency pays under division (D)(1) of this 46091
section. An agency may collect a fee only if the agency notifies 46092
the person at the time of initial application for employment of 46093
the amount of the fee and that, unless the fee is paid, the person 46094
will not be considered for employment. 46095

(E) The report of any criminal records check conducted 46096
pursuant to a request made under this section is not a public 46097
record for the purposes of section 149.43 of the Revised Code and 46098
shall not be made available to any person other than the 46099
following: 46100

(1) The individual who is the subject of the criminal records 46101
check or the individual's representative; 46102

(2) The chief administrator of the agency requesting the 46103
criminal records check or the administrator's representative; 46104

(3) A court, hearing officer, or other necessary individual 46105
involved in a case dealing with a denial of employment of the 46106
applicant or dealing with employment or unemployment benefits of 46107
the applicant. 46108

(F) 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 a waiver agency may employ a person 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.

(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.

(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies.

(2) This section shall not apply to a person to whom both of the following apply:

(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities.

(b) The person previously had been the subject of a criminal background check relating to that position;

(c) The person has been continuously employed in that position since that criminal background check had been conducted.

Sec. 5111.96. (A) As used in this section: 46139

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after the effective date of this section. 46140
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 46143
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(3) "The department" means the department of job and family services or its designee. 46145
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(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities. "Independent provider" does not include a person providing home and community-based waiver services through components of the medicaid program being administered by the department of mental retardation and developmental disabilities pursuant to a contract entered into with the department of job and family services under section 5111.871 of the Revised Code. 46147
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code. 46159
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(B)(1) The department shall inform each independent provider, at the time of initial application for a provider 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 if the person is to become an independent provider in a department administered home and community-based services program. 46161
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(2) Beginning on the effective date of this section, the 46169
department shall inform each enrolled medicaid independent 46170
provider on or before time of the anniversary date of the provider 46171
agreement that involves providing home and community-based waiver 46172
services to consumers with disabilities that the independent 46173
provider is required to provide a set of fingerprint impressions 46174
and that a criminal records check is required to be conducted. 46175

(C)(1) The department shall require the independent provider 46176
to complete a criminal records check prior to entering into a 46177
provider agreement with the independent provider and at least 46178
annually thereafter. If an independent provider for whom a 46179
criminal records check is required under this division does not 46180
present proof of having been a resident of this state for the 46181
five-year period immediately prior to the date the criminal 46182
records check is requested or provide evidence that within that 46183
five-year period the superintendent has requested information 46184
about the applicant from the federal bureau of investigation in a 46185
criminal records check, the department shall request the 46186
independent provider obtain through the superintendent a criminal 46187
records request from the federal bureau of investigation as part 46188
of the criminal records check of the independent provider. Even if 46189
an independent provider for whom a criminal records check request 46190
is required under this division presents proof of having been a 46191
resident of this state for the five-year period, the department 46192
may request that the independent provider obtain information 46193
through the superintendent from the federal bureau of 46194
investigation in the criminal records check. 46195

(2) The department shall do both of the following: 46196

(a) Provide information to each independent provider for whom 46197
a criminal records check request is required under division (C)(1) 46198
of this section about requesting a copy of the form prescribed 46199
pursuant to division (C)(1) of section 109.572 of the Revised Code 46200

and a standard fingerprint impression sheet prescribed pursuant to 46201
division (C)(2) of that section, and obtain the completed form and 46202
impression sheet and fee from the independent provider; 46203

(b) Forward the completed form, impression sheet, and fee to 46204
the superintendent of the bureau of criminal identification and 46205
investigation. 46206

(3) An independent provider given information about obtaining 46207
the form and fingerprint impression sheet under division (C)(2)(a) 46208
of this section who fails to complete the form or provide 46209
fingerprint impressions shall not be approved as an independent 46210
provider. 46211

(D) Except as provided in rules adopted by the department in 46212
accordance with division (G) of this section, the department shall 46213
not issue a new provider agreement to, and shall terminate an 46214
existing provider agreement of, an independent provider if the 46215
person has been convicted of or pleaded guilty to any of the 46216
following: 46217

(1) A violation of section 2903.01, 2903.02, 2903.03, 46218
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 46219
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 46220
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 46221
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 46222
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 46223
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 46224
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 46225
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 46226
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 46227
Revised Code, felonious sexual penetration in violation of former 46228
section 2907.12 of the Revised Code, a violation of section 46229
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 46230
violation of section 2919.23 of the Revised Code that would have 46231
been a violation of section 2905.04 of the Revised Code as it 46232

existed prior to July 1, 1996, had the violation been committed 46233
prior to that date; 46234

(2) An existing or former law of this state, any other state, 46235
or the United States that is substantially equivalent to any of 46236
the offenses listed in division (D)(1) of this section. 46237

(E) Each independent provider shall pay to the bureau of 46238
criminal identification and investigation the fee prescribed 46239
pursuant to division (C)(3) of section 109.572 of the Revised Code 46240
for each criminal records check conducted pursuant to a request 46241
made under division (C) of this section. 46242

(F) The report of any criminal records check conducted by the 46243
bureau of criminal identification and investigation in accordance 46244
with section 109.572 of the Revised Code and pursuant to a request 46245
made under division (C) of this section is not a public record for 46246
the purposes of section 149.43 of the Revised Code and shall not 46247
be made available to any person other than the following: 46248

(1) The person who is the subject of the criminal records 46249
check or the person's representative; 46250

(2) The administrator at the department who is requesting the 46251
criminal records check or the administrator's representative; 46252

(3) Any court, hearing officer, or other necessary individual 46253
involved in a case dealing with a denial or termination of a 46254
provider agreement related to the criminal records check. 46255

(G) The department shall adopt rules in accordance with 46256
Chapter 119. of the Revised Code to implement this section. The 46257
rules shall specify circumstances under which the department may 46258
issue a provider agreement to an independent provider who has been 46259
convicted of or pleaded guilty to an offense listed or described 46260
in division (C)(1) of this section but meets personal character 46261
standards set by the department. 46262

Sec. 5111.97. (A) The director of job and family services may 46263
submit a request to the United States secretary of health and 46264
human services pursuant to section 1915 of the "Social Security 46265
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 46266
waivers of federal medicaid requirements that would otherwise be 46267
violated in the creation and implementation of two medicaid home 46268
and community-based services programs to replace the Ohio home 46269
care program being operated pursuant to rules adopted under 46270
sections 5111.01 and 5111.02 of the Revised Code and a medicaid 46271
waiver granted prior to the effective date of this section. In the 46272
request, the director may specify the following: 46273

(1) That one of the replacement programs will provide home 46274
and community-based services to individuals in need of nursing 46275
facility care, including individuals enrolled in the Ohio home 46276
care program; 46277

(2) That the other replacement program will provide services 46278
to individuals in need of hospital care, including individuals 46279
enrolled in the Ohio home care program; 46280

(3) That there will be a maximum number of individuals who 46281
may be enrolled in the replacement programs in addition to the 46282
number of individuals to be transferred from the Ohio home care 46283
program; 46284

(4) That there will be a maximum amount the department may 46285
expend each year for each individual enrolled in the replacement 46286
programs; 46287

(5) That there will be a maximum aggregate amount the 46288
department may expend each year for all individuals enrolled in 46289
the replacement programs; 46290

(6) Any other requirement the director selects for the 46291
replacement programs. 46292

(B) If the secretary grants the medicaid waivers requested, 46293
the director may create and implement the replacement programs in 46294
accordance with the provisions of the waivers granted. The 46295
department of job and family services shall administer the 46296
replacement programs. 46297

As the replacement programs are implemented, the director 46298
shall reduce the maximum number of individuals who may be enrolled 46299
in the Ohio home care program by the number of individuals who are 46300
transferred to the replacement programs. When all individuals who 46301
are eligible to be transferred to the replacement programs have 46302
been transferred, the director may submit to the secretary an 46303
amendment to the state medicaid plan to provide for the 46304
elimination of the Ohio home care program. 46305

Sec. 5112.03. (A) The director of job and family services 46306
shall adopt, and may amend and rescind, rules in accordance with 46307
Chapter 119. of the Revised Code for the purpose of administering 46308
sections 5112.01 to 5112.21 of the Revised Code, including rules 46309
that do all of the following: 46310

(1) Define as a "disproportionate share hospital" any 46311
hospital included under subsection (b) of section 1923 of the 46312
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 46313
1396r-4(b), as amended, and any other hospital the director 46314
determines appropriate; 46315

(2) Prescribe the form for submission of cost reports under 46316
section 5112.04 of the Revised Code; 46317

(3) Establish, in accordance with division (A) of section 46318
5112.06 of the Revised Code, the assessment rate or rates to be 46319
applied to hospitals under that section; 46320

(4) Establish schedules for hospitals to pay installments on 46321
their assessments under section 5112.06 of the Revised Code and 46322

for governmental hospitals to pay installments on their 46323
intergovernmental transfers under section 5112.07 of the Revised 46324
Code; 46325

(5) Establish procedures to notify hospitals of adjustments 46326
made under division (B)(2)(b) of section 5112.06 of the Revised 46327
Code in the amount of installments on their assessment; 46328

(6) Establish procedures to notify hospitals of adjustments 46329
made under division (D) of section 5112.09 of the Revised Code in 46330
the total amount of their assessment and to adjust for the 46331
remainder of the program year the amount of the installments on 46332
the assessments; 46333

(7) Establish, in accordance with section 5112.08 of the 46334
Revised Code, the methodology for paying hospitals under that 46335
section. 46336

The director shall consult with hospitals when adopting the 46337
rules required by divisions (A)(4) and (5) of this section in 46338
order to minimize hospitals' cash flow difficulties. 46339

(B) Rules adopted under this section may provide that "total 46340
facility costs" excludes costs associated with any of the 46341
following: 46342

(1) Recipients of the medical assistance program; 46343

(2) Recipients of financial assistance provided under Chapter 46344
5115. of the Revised Code; 46345

(3) Recipients of ~~disability assistance~~ medical assistance 46346
provided under Chapter 5115. of the Revised Code; 46347

~~(3)~~(4) Recipients of the program for medically handicapped 46348
children established under section 3701.023 of the Revised Code; 46349

~~(4)~~(5) Recipients of the medicare program established under 46350
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 46351
U.S.C.A. 301, as amended: 46352

~~(5)~~(6) Recipients of Title V of the "Social Security Act"; 46353

~~(6)~~(7) Any other category of costs deemed appropriate by the 46354
director in accordance with Title XIX of the "Social Security Act" 46355
and the rules adopted under that title. 46356

Sec. 5112.08. The director of job and family services shall 46357
adopt rules under section 5112.03 of the Revised Code establishing 46358
a methodology to pay hospitals that is sufficient to expend all 46359
money in the indigent care pool. Under the rules: 46360

(A) The department of job and family services may classify 46361
similar hospitals into groups and allocate funds for distribution 46362
within each group. 46363

(B) The department shall establish a method of allocating 46364
funds to hospitals, taking into consideration the relative amount 46365
of indigent care provided by each hospital or group of hospitals. 46366
The amount to be allocated shall be based on any combination of 46367
the following indicators of indigent care that the director 46368
considers appropriate: 46369

(1) Total costs, volume, or proportion of services to 46370
recipients of the medical assistance program, including recipients 46371
enrolled in health insuring corporations; 46372

(2) Total costs, volume, or proportion of services to 46373
low-income patients in addition to recipients of the medical 46374
assistance program, which may include recipients of Title V of the 46375
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 46376
amended, and ~~disability~~ recipients of financial or medical 46377
assistance ~~established~~ provided under Chapter 5115. of the Revised 46378
Code; 46379

(3) The amount of uncompensated care provided by the hospital 46380
or group of hospitals; 46381

(4) Other factors that the director considers to be 46382

appropriate indicators of indigent care. 46383

(C) The department shall distribute funds to each hospital or 46384
group of hospitals in a manner that first may provide for an 46385
additional distribution to individual hospitals that provide a 46386
high proportion of indigent care in relation to the total care 46387
provided by the hospital or in relation to other hospitals. The 46388
department shall establish a formula to distribute the remainder 46389
of the funds. The formula shall be consistent with section 1923 of 46390
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 46391
be based on any combination of the indicators of indigent care 46392
listed in division (B) of this section that the director considers 46393
appropriate. 46394

(D) The department shall distribute funds to each hospital in 46395
installments not later than ten working days after the deadline 46396
established in rules for each hospital to pay an installment on 46397
its assessment under section 5112.06 of the Revised Code. In the 46398
case of a governmental hospital that makes intergovernmental 46399
transfers, the department shall pay an installment under this 46400
section not later than ten working days after the earlier of that 46401
deadline or the deadline established in rules for the governmental 46402
hospital to pay an installment on its intergovernmental transfer. 46403
If the amount in the hospital care assurance program fund and the 46404
hospital care assurance match fund created under section 5112.18 46405
of the Revised Code is insufficient to make the total 46406
distributions for which hospitals are eligible to receive in any 46407
period, the department shall reduce the amount of each 46408
distribution by the percentage by which the amount is 46409
insufficient. The department shall distribute to hospitals any 46410
amounts not distributed in the period in which they are due as 46411
soon as moneys are available in the funds. 46412

Sec. 5112.17. (A) As used in this section: 46413

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline. Recipients of disability financial assistance and recipients of disability medical assistance provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the

following apply: 46446

(1) The hospital has an established post-billing procedure 46447
for determining the individual's income and canceling the charges 46448
if the individual is found to qualify for services under this 46449
section. 46450

(2) The initial bill, and at least the first follow-up bill, 46451
is accompanied by a written statement that does all of the 46452
following: 46453

(a) Explains that individuals with income at or below the 46454
federal poverty guideline are eligible for services without 46455
charge; 46456

(b) Specifies the federal poverty guideline for individuals 46457
and families of various sizes at the time the bill is sent; 46458

(c) Describes the procedure required by division (C)(1) of 46459
this section. 46460

(3) The hospital complies with any additional rules the 46461
department adopts under section 5112.03 of the Revised Code. 46462

Notwithstanding division (B) of this section, a hospital 46463
providing care to an individual under this section is subrogated 46464
to the rights of any individual to receive compensation or 46465
benefits from any person or governmental entity for the hospital 46466
goods and services rendered. 46467

(D) Each hospital shall collect and report to the department, 46468
in the form and manner prescribed by the department, information 46469
on the number and identity of patients served pursuant to this 46470
section. 46471

(E) This section applies beginning May 22, 1992, regardless 46472
of whether the department has adopted rules specifying the 46473
services to be provided. Nothing in this section alters the scope 46474
or limits the obligation of any governmental entity or program, 46475

including the program awarding reparations to victims of crime 46476
under sections 2743.51 to 2743.72 of the Revised Code and the 46477
program for medically handicapped children established under 46478
section 3701.023 of the Revised Code, to pay for hospital services 46479
in accordance with state or local law. 46480

Sec. 5112.31. The department of job and family services 46481
shall: 46482

(A) For the purpose of providing home and community-based 46483
services for mentally retarded and developmentally disabled 46484
persons, annually assess each intermediate care facility for the 46485
mentally retarded a franchise permit fee equal to nine dollars and 46486
~~twenty-four~~ sixty-three cents multiplied by the product of the 46487
following: 46488

(1) The number of beds certified under Title XIX of the 46489
"Social Security Act" on the first day of May of the calendar year 46490
in which the assessment is determined pursuant to division (A) of 46491
section 5112.33 of the Revised Code; 46492

(2) The number of days in the fiscal year beginning on the 46493
first day of July of the same calendar year. 46494

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 46495
day of each July thereafter, adjust fees determined under division 46496
(A) of this section in accordance with the composite inflation 46497
factor established in rules adopted under section 5112.39 of the 46498
Revised Code. 46499

If the United States secretary of health and human services 46500
determines that the franchise permit fee established by sections 46501
5112.30 to 5112.39 of the Revised Code would be an impermissible 46502
health care-related tax under section 1903(w) of the "Social 46503
Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 46504
shall take all necessary actions to cease implementation of those 46505

sections in accordance with rules adopted under section 5112.39 of 46506
the Revised Code. 46507

Sec. 5112.99. (A) The director of job and family services 46508
shall impose a penalty ~~of one hundred dollars~~ for each day that a 46509
hospital fails to report the information required under section 46510
5112.04 of the Revised Code on or before the dates specified in 46511
that section. The amount of the penalty shall be established by 46512
the director in rules adopted under section 5112.03 of the Revised 46513
Code. 46514

(B) In addition to any other remedy available to the 46515
department of job and family services under law to collect unpaid 46516
assessments and transfers, the director shall impose a penalty of 46517
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 46518
~~dollars,~~ on any hospital that fails to pay assessments or make 46519
intergovernmental transfers by the dates required by rules adopted 46520
under section 5112.03 of the Revised Code. 46521

(C) The director shall waive the penalties provided for in 46522
divisions (A) and (B) of this section for good cause shown by the 46523
hospital. 46524

(D) All penalties imposed under this section shall be 46525
deposited into the ~~general revenue~~ health care administration fund 46526
created by section 5111.94 of the Revised Code. 46527

Sec. 5115.01. (A) ~~There is hereby established~~ The director of 46528
job and family services shall establish the disability financial 46529
assistance program. ~~Except as provided in division (D) of this~~ 46530
~~section, a disability assistance recipient shall receive financial~~ 46531
~~assistance. Except as provided in section 5115.11 of the Revised~~ 46532
~~Code, a disability assistance recipient also shall receive~~ 46533
~~disability assistance medical assistance.~~ 46534

~~Except as provided by division (B) of this section, a person~~ 46535

~~who meets all of the following requirements is (B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability financial assistance program, a person may be eligible for disability financial assistance only if one of the following applies:~~

~~(1) The person is ineligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code and to receive supplemental security income provided pursuant to Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;~~

~~(2) The person is at least one of the following:~~

~~(a) Under age eighteen;~~

~~(b) Age sixty or older;~~

~~(c) Pregnant;~~

~~(d) Unable unable to do any substantial or gainful activity by reason of 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;~~

~~(e) A resident of a residential treatment center certified as an alcohol or drug addiction program by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code.~~

~~(f) Medication dependent as determined by a physician, as defined in section 4730.01 of the Revised Code, who has certified to the county department of job and family services that the person is receiving ongoing treatment for a chronic medical condition requiring continuous prescription medication for an indefinite, long term period of time and for whom the loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.~~

~~(3) The (2) On the day before the effective date of this amendment, the person meets the eligibility requirements established in rules adopted under section 5115.05 of the Revised Code was sixty years of age or older and one of the following is the case:~~ 46566
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~~(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older;~~ 46571
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~~(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application.~~ 46574
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~~(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of the following:~~ 46579
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~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 46582

~~(b) The time limit established by section 5107.18 of the Revised Code;~~ 46583
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~~(c) Failure to comply with an application or verification procedure;~~ 46585
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~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~ 46587
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~~(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same ineligible assistance group. A person age eighteen or older is ineligible for disability assistance pursuant to division~~ 46589
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~~(E)(1)(a) of this section regardless of whether the person caused the assistance group to be ineligible to participate in the Ohio works first program.~~ 46596
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~~(C) The county department of job and family services that serves the county in which a person receiving disability assistance pursuant to division (A)(2)(e) of this section participates in an alcohol or drug addiction program shall designate a representative payee for purposes of receiving and distributing financial assistance provided under the disability assistance program to the person.~~ 46599
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~~(D) A person eligible for disability assistance pursuant to division (A)(2)(f) of this section shall not receive financial assistance.~~ 46606
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~~(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.~~ 46609
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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: 46614
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(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; 46617
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<u>(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:</u>	46626
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	46627
<u>(b) Failure to comply with an application or verification procedure;</u>	46628
<u>(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;</u>	46629
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	46630
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	46631
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	46632
<u>(5) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;</u>	46633
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	46634
<u>(7) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	46635
<u>(8) The individual reside in a county home, city infirmary, jail, or public institution;</u>	46636
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(9) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code; 46656
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~~(B)(10) The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.~~ 46658
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(B)(1) As used in division (B)(2) of this section, "assistance group" has the same meaning as in section 5107.02 of the Revised Code. 46661
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(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows: 46664
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(a) In the case of an individual who is under eighteen years of age, the individual is ineligible only if the individual caused the assistance group to be ineligible to participate in the Ohio works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group. 46666
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(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. 46672
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Sec. 5115.03. (A) The director of job and family services shall ~~do both of the following:~~ 46676
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~~(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.~~ 46678
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~~(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~~ 46683
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<u>any or all of the following:</u>	46686
<u>(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program;</u>	46687
<u>(2) Limits on the length of time an individual may receive disability financial assistance;</u>	46688
<u>(3) Limits on the total number of individuals in the state who may receive disability financial assistance;</u>	46689
<u>(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance;</u>	46690
<u>(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 provided;</u>	46691
<u>(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.</u>	46692
<u>(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.</u>	46693
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(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. 46716
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(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following: 46725
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(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director; 46728
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(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of new applications. 46732
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Sec. 5115.02 5115.04. (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any 46743
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administrative function specified in rules adopted by the director 46747
of job and family services, ~~including making determinations of~~ 46748
~~financial eligibility and initial determinations of whether an~~ 46749
~~applicant meets a condition of eligibility under division~~ 46750
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 46751
~~financial assistance payments, reimbursing providers of medical~~ 46752
~~services for services provided to disability assistance~~ 46753
~~recipients, and any other function specified in the rules. The~~ 46754
~~department may also require county departments to make a final~~ 46755
~~determination of whether an applicant meets a condition for~~ 46756
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 46757
~~section 5115.01 of the Revised Code. The department shall make the~~ 46758
~~final determination of whether an applicant meets a condition of~~ 46759
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 46760
~~Revised Code.~~ 46761

(B) If the department requires county departments to perform 46762
administrative functions under this section, the director shall 46763
adopt rules in accordance with section 111.15 of the Revised Code 46764
governing the performance of the functions to be performed by 46765
county departments. County departments shall perform the functions 46766
in accordance with the rules. The director shall conduct 46767
investigations to determine whether disability financial 46768
assistance is being administered in compliance with the Revised 46769
Code and rules adopted by the director. 46770

(C) If disability financial assistance payments ~~or medical~~ 46771
~~services reimbursements~~ are made by the county department of job 46772
and family services, the department shall advance sufficient funds 46773
to provide the county treasurer with the amount estimated for the 46774
payments ~~or reimbursements~~. Financial assistance payments shall be 46775
distributed in accordance with sections 117.45, 319.16, and 329.03 46776
of the Revised Code. 46777

Sec. 5115.05. (A) The director of job and family services 46778
shall adopt rules in accordance with section 111.15 of the Revised 46779
Code establishing application and verification procedures, 46780
reapplication procedures, and ~~income, resource, citizenship, age,~~ 46781
~~residence, living arrangement, assistance group composition, and~~ 46782
other eligibility requirements the director considers necessary in 46783
the administration of the application process for disability 46784
financial assistance. The rules may ~~provide for disregarding~~ 46785
~~amounts of earned and unearned income for the purpose of~~ 46786
~~determining whether an assistance group is eligible for assistance~~ 46787
~~and the amount of assistance provided under this chapter. The~~ 46788
~~rules also may provide that the income and resources, or a certain~~ 46789
~~amount of the income and resources, of a member of an assistance~~ 46790
~~group's family group will be included in determining whether the~~ 46791
~~assistance group is eligible for aid and the amount of aid~~ 46792
~~provided under this chapter.~~ 46793

~~If financial assistance under this chapter is to be paid by~~ 46794
~~the auditor of state through the medium of direct deposit, the~~ 46795
~~application shall be accompanied by information the auditor needs~~ 46796
~~to make direct deposits.~~ 46797

~~The department of job and family services may require~~ 46798
~~recipients of disability financial assistance to participate in a~~ 46799
~~reapplication process two months after initial approval for~~ 46800
~~assistance has been determined and at such other times as~~ 46801
~~specified in the department requires rules.~~ 46802

~~If a recipient of disability assistance, or the spouse of or~~ 46803
~~member of the assistance group of a recipient, becomes possessed~~ 46804
~~of resources or income in excess of the amount allowed under rules~~ 46805
~~adopted under this section, or if other changes occur that affect~~ 46806
~~the person's eligibility or need for assistance, the recipient~~ 46807
~~shall notify the department or county department of job and family~~ 46808

~~services within the time limits specified in the rules. Failure of 46809
a recipient to report possession of excess resources or income or 46810
a change affecting eligibility or need within those time limits 46811
shall be considered prima facie evidence of intent to defraud 46812
under section 5115.15 of the Revised Code. 46813~~

~~Each applicant for or recipient of disability assistance 46814
shall make reasonable efforts to secure support from persons 46815
responsible for the applicant's or recipient's support, and from 46816
other sources, as a means of preventing or reducing the provision 46817
of disability assistance at public expense. The department or 46818
county department may provide assistance to the applicant or 46819
recipient in securing other forms of financial or medical 46820
assistance. 46821~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 46822
disability assistance applicant or recipient who is at least 46823
eighteen but under twenty two years of age resides with the 46824
applicant's or recipient's parents, the income of the parents 46825
shall be taken into account in determining the applicant's or 46826
recipient's financial eligibility. The director shall adopt rules 46827
for determining the amount of income to be attributed to the 46828
assistance group of applicants in this age category. 46829~~

~~(B) Any person who applies for disability financial 46830
assistance under this section shall receive a voter registration 46831
application under section 3503.10 of the Revised Code. 46832~~

~~**Sec. 5115.07 5115.06.** Financial assistance Assistance under 46833
the disability financial assistance program may be given by 46834
warrant, direct deposit, or, if provided by the director of job 46835
and family services pursuant to section 5101.33 of the Revised 46836
Code, by electronic benefit transfer. It shall be inalienable 46837
whether by way of assignment, charge, or otherwise, and is exempt 46838
from attachment, garnishment, or other like process. ~~Any~~ 46839~~

Any direct deposit shall be made to a financial institution 46840
and account designated by the recipient. ~~The~~ If disability 46841
financial assistance is to be paid by the auditor of state through 46842
direct deposit, the application for assistance shall be 46843
accompanied by information the auditor needs to make direct 46844
deposits. 46845

The director of job and family services may adopt rules for 46846
designation of financial institutions and accounts. ~~No~~ 46847

No financial institution shall impose any charge for direct 46848
deposit of disability ~~assistance~~ financial assistance payments 46849
that it does not charge all customers for similar services. 46850

~~The department of job and family services shall establish~~ 46851
~~financial assistance payment amounts based on state~~ 46852
~~appropriations.~~ 46853

~~Disability assistance may be given to persons living in their~~ 46854
~~own homes or other suitable quarters, but shall not be given to~~ 46855
~~persons who reside in a county home, city infirmary, jail, or~~ 46856
~~public institution. Disability assistance shall not be given to an~~ 46857
~~unemancipated child unless the child lives with the child's~~ 46858
~~parents, guardians, or other persons standing in place of parents.~~ 46859
~~For the purpose of this section, a child is emancipated if the~~ 46860
~~child is married, serving in the armed forces, or has been~~ 46861
~~emancipated by court order.~~ 46862

~~No person shall be eligible for disability assistance if, for~~ 46863
~~the purpose of avoiding consideration of property in~~ 46864
~~determinations of the person's eligibility for disability~~ 46865
~~assistance or a greater amount of assistance, the person has~~ 46866
~~transferred property during the two years preceding application~~ 46867
~~for or most recent redetermination of eligibility for disability~~ 46868
~~assistance.~~ 46869

~~Sec. 5115.13~~ 5115.07. The acceptance of ~~disability financial~~ 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.

~~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.~~

~~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.~~

~~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:~~

~~(1) Services that will be provided under the system of managed primary care;~~

~~(2) Hospital services that will be provided during the period that hospital services are provided under the program;~~

~~(3) The maximum authorized amount, scope, duration, or limit of payment for services.~~

~~(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 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.~~

~~(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:~~

~~(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;~~

~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 46930
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~~(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.~~ 46932
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~~(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 department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.~~ 46936
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~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance~~ 46949
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(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. 46951
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(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: 46957
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(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: 46961
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(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; 46965
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(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months. 46968
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(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; 46971
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent. 46975
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Sec. 5115.11. ~~If a member of an assistance group receiving disability assistance under this chapter~~ An individual who 46978
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qualifies for the medical assistance program established under 46980
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 46981
medical assistance through that program rather than through the 46982
disability ~~assistance~~ medical assistance program. 46983

An individual is ineligible for disability medical assistance if, for the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability medical 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 medical assistance. 46984
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Sec. 5115.12. (A) The director of job and family services 46991
shall adopt rules in accordance with section 111.15 of the Revised 46992
Code governing the disability medical assistance program. The 46993
rules may establish or specify any or all of the following: 46994

(1) Income, resource, citizenship, age, residence, living 46995
arrangement, and other eligibility requirements; 46996

(2) Health services to be included in the program; 46997

(3) The maximum authorized amount, scope, duration, or limit 46998
of payment for services; 46999

(4) Limits on the length of time an individual may receive 47000
disability medical assistance; 47001

(5) Limits on the total number of individuals in the state 47002
who may receive disability medical assistance. 47003

(B) For purposes of limiting the cost of the disability 47004
medical assistance program, the director may do either of the 47005
following: 47006

(1) Adopt rules in accordance with section 111.15 of the 47007
Revised Code that revise the program's eligibility requirements; 47008
the maximum authorized amount, scope, duration, or limit of 47009
payment for services included in the program; or any other 47010
requirement or standard established or specified by rules adopted 47011
under division (A) of this section or under section 5115.10 of the 47012
Revised Code; 47013

(2) Suspend acceptance of applications for disability medical 47014
assistance. While a suspension is in effect, no person shall 47015
receive a determination or redetermination of eligibility for 47016
disability medical assistance unless the person was receiving the 47017
assistance during the month immediately preceding the suspension's 47018
effective date or the person submitted an application prior to the 47019
suspension's effective date and receives a determination of 47020

eligibility based on that application. The director may adopt 47021
rules in accordance with section 111.15 of the Revised Code 47022
establishing requirements and specifying procedures applicable to 47023
the suspension of acceptance of new applications. 47024

Sec. 5115.13. (A) The department of job and family services 47025
shall supervise and administer the disability medical program, 47026
except as follows: 47027

(1) The department may require county departments of job and 47028
family services to perform any administrative function specified 47029
in rules adopted by the director of job and family services. 47030

(2) The director may contract with any private or public 47031
entity in this state to perform any administrative function or to 47032
administer any or all of the program. 47033

(B) If the department requires county departments to perform 47034
administrative functions, the director of job and family services 47035
shall adopt rules in accordance with section 111.15 of the Revised 47036
Code governing the performance of the functions to be performed by 47037
county departments. County departments shall perform the functions 47038
in accordance with the rules. 47039

If the director contracts with a private or public entity to 47040
perform administrative functions or to administer any or all of 47041
the program, the director may either adopt rules in accordance 47042
with section 111.15 of the Revised Code or include provisions in 47043
the contract governing the performance of the functions by the 47044
private or public entity. Entities under contract shall perform 47045
the functions in accordance with the requirements established by 47046
the director. 47047

(C) Whenever division (A)(1) or (2) of this section is 47048
implemented, the director shall conduct investigations to 47049
determine whether disability medical assistance is being 47050

administered in compliance with the Revised Code and rules adopted 47051
by the director or in accordance with the terms of the contract. 47052

Sec. 5115.14. (A) The director of job and family services 47053
shall adopt rules in accordance with section 111.15 of the Revised 47054
Code establishing application and verification procedures, 47055
reapplication procedures, and other requirements the director 47056
considers necessary in the administration of the application 47057
process for disability medical assistance. 47058

(B) Any person who applies for disability medical assistance 47059
shall receive a voter registration application under section 47060
3503.10 of the Revised Code. 47061

Sec. 5115.20. (A) The department of job and family services 47062
shall establish a disability advocacy program and each county 47063
department of job and family services shall establish a disability 47064
advocacy program unit or join with other county departments of job 47065
and family services to establish a joint county disability 47066
advocacy program unit. Through the program the department and 47067
county departments shall cooperate in efforts to assist applicants 47068
for and recipients of assistance under ~~this chapter~~ the disability 47069
financial assistance program and the disability medical assistance 47070
program, who might be eligible for supplemental security income 47071
benefits under Title XVI of the "Social Security Act," 86 Stat. 47072
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 47073
benefits. The 47074

As part of their disability advocacy programs, the state 47075
department and county departments may enter into contracts for the 47076
services ~~to applicants for and recipients of assistance under this~~ 47077
~~chapter who might be eligible for supplemental security income~~ 47078
~~benefits with~~ of persons and governmental government entities that 47079
in the judgment of the department or county department have 47080

demonstrated expertise in representing persons seeking 47081
supplemental security income benefits. Each contract shall require 47082
the person or entity with which a department contracts to assess 47083
each person referred to it by the department to determine whether 47084
the person appears to be eligible for supplemental security income 47085
benefits, and, if the person appears to be eligible, assist the 47086
person in applying and represent the person in any proceeding of 47087
the social security administration, including any appeal or 47088
reconsideration of a denial of benefits. The department or county 47089
department shall provide to the person or entity with which it 47090
contracts all records in its possession relevant to the 47091
application for supplemental security income benefits. The 47092
department shall require a county department with relevant records 47093
to submit them to the person or entity. 47094

(B) Each applicant for or recipient of disability financial 47095
assistance or disability medical assistance ~~under this chapter~~ 47096
who, in the judgment of the department or a county department 47097
might be eligible for supplemental security benefits, ~~must~~ shall, 47098
as a condition of eligibility for assistance, apply for such 47099
benefits if directed to do so by the department or county 47100
department. 47101

(C) ~~Each~~ With regard to applicants for and recipients of 47102
disability financial assistance or disability medical assistance, 47103
each county department of job and family services shall do all of 47104
the following: 47105

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 47106
~~under this chapter~~ who might be eligible for supplemental security 47107
income benefits; 47108

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 47109
~~this chapter~~ in securing documentation of disabling conditions or 47110
refer them for such assistance to a person or government ~~agency~~ 47111
entity with which the department or county department has 47112

contracted under division (A) of this section; 47113

(3) Inform applicants ~~for~~ and recipients ~~of assistance under~~ 47114
~~this chapter~~ of available sources of representation, which may 47115
include a person or government entity with which the department or 47116
county department has contracted under division (A) of this 47117
section, and of their right to represent themselves in 47118
reconsiderations and appeals of social security administration 47119
decisions that deny them supplemental security income benefits. 47120
The county department may require the applicants and recipients, 47121
as a condition of eligibility for assistance, to pursue 47122
reconsiderations and appeals of social security administration 47123
decisions that deny them supplemental security income benefits, 47124
and shall assist applicants and recipients as necessary to obtain 47125
such benefits or refer them to a person or government ~~agency~~ 47126
entity with which the department or county department has 47127
contracted under division (A) of this section. 47128

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 47129
~~this chapter~~ who, in the judgment of the county department, are or 47130
may be aged, blind, or disabled, to apply for medical assistance 47131
under Chapter 5111. of the Revised Code, make determinations when 47132
appropriate as to eligibility for medical assistance, and refer 47133
their applications when necessary to the disability determination 47134
unit established in accordance with division (F) of this section 47135
for expedited review; 47136

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 47137
~~assistance under this chapter~~ who in the judgment of the 47138
department or the county department might be eligible for 47139
supplemental security income benefits, as a condition of 47140
eligibility for disability financial assistance or disability 47141
medical assistance ~~under this chapter~~, to execute a written 47142
authorization for the secretary of health and human services to 47143
withhold benefits due that individual and pay to the director of 47144

job and family services or the director's designee an amount 47145
sufficient to reimburse the state and county shares of interim 47146
assistance furnished to the individual. For the purposes of 47147
division (C)(5) of this section, "benefits" and "interim 47148
assistance" have the meanings given in Title XVI of the "Social 47149
Security Act." 47150

(D) The director of job and family services shall adopt rules 47151
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 47152
for the effective administration of the disability advocacy 47153
program. The rules shall include all of the following: 47154

(1) Methods to be used in collecting information from and 47155
disseminating it to county departments, including the following: 47156

(a) The number of individuals in the county who are disabled 47157
recipients of disability financial assistance or disability 47158
medical assistance ~~under this chapter in the county;~~ 47159

(b) The final decision made either by the social security 47160
administration or by a court for each application or 47161
reconsideration in which an individual was assisted pursuant to 47162
this section. 47163

(2) The type and process of training to be provided by the 47164
department of job and family services to the employees of the 47165
county department of job and family services who perform duties 47166
under this section; 47167

(3) Requirements for the written authorization required by 47168
division (C)(5) of this section. 47169

(E) The department shall provide basic and continuing 47170
training to employees of the county department of job and family 47171
services who perform duties under this section. Training shall 47172
include but not be limited to all processes necessary to obtain 47173
federal disability benefits, and methods of advocacy. 47174

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. 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 5115.23 of the Revised Code. 47206

(B) As a condition of eligibility for disability financial 47207
assistance or disability medical assistance, and as a means of 47208
preventing or reducing the provision of assistance at public 47209
expense, each applicant for or recipient of the assistance shall 47210
make reasonable efforts to secure support from persons responsible 47211
for the applicant's or recipient's support, and from other 47212
sources, including any federal program designed to provide 47213
assistance to individuals with disabilities. The state or county 47214
department of job and family services may provide assistance to 47215
the applicant or recipient in securing other forms of financial 47216
assistance. 47217

Sec. 5115.15 5115.23. As used in this section, "erroneous 47218
payments" means disability financial assistance payments, 47219
~~including~~ or disability ~~assistance~~ medical assistance payments, 47220
made to persons who are not entitled to receive them, including 47221
payments made as a result of misrepresentation or fraud, and 47222
payments made due to an error by the recipient or by the county 47223
department of job and family services that made the payment. 47224

The department of job and family services shall adopt rules 47225
in accordance with section 111.15 of the Revised Code specifying 47226
the circumstances under which action is to be taken under this 47227
section to recover erroneous payments. The department, or a county 47228
department of job and family services at the request of the 47229
department, shall take action to recover erroneous payments in the 47230
circumstances specified in the rules. The department or county 47231
department may institute a civil action to recover erroneous 47232
payments. 47233

Whenever disability financial assistance or disability 47234
medical assistance has been furnished to a recipient for whose 47235
support another person is responsible, the other person shall, in 47236

addition to the liability otherwise imposed, as a consequence of 47237
failure to support the recipient, be liable for all ~~disability~~ 47238
assistance furnished the recipient. The value of the assistance so 47239
furnished may be recovered in a civil action brought by the county 47240
department of job and family services. 47241

Each county department of job and family services shall 47242
retain fifty per cent of the erroneous payments it recovers under 47243
this section. The department of job and family services shall 47244
receive the remaining fifty per cent. 47245

Sec. 5119.61. Any provision in this chapter that refers to a 47246
board of alcohol, drug addiction, and mental health services also 47247
refers to the community mental health board in an alcohol, drug 47248
addiction, and mental health service district that has a community 47249
mental health board. 47250

The director of mental health with respect to all facilities 47251
and programs established and operated under Chapter 340. of the 47252
Revised Code for mentally ill and emotionally disturbed persons, 47253
shall do all of the following: 47254

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 47255
that may be necessary to carry out the purposes of Chapter 340. 47256
and sections 5119.61 to 5119.63 of the Revised Code. 47257

(1) The rules shall include all of the following: 47258

(a) Rules governing a community mental health agency's 47259
services under section 340.091 of the Revised Code to an 47260
individual referred to the agency under division (C)(2) of section 47261
173.35 of the Revised Code; 47262

(b) For the purpose of division (A)(16) of section 340.03 of 47263
the Revised Code, rules governing the duties of mental health 47264
agencies and boards of alcohol, drug addiction, and mental health 47265
services under section 3722.18 of the Revised Code regarding 47266

referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state

mental health plan, including the needs of residents of the 47298
district now residing in state mental institutions, approve and 47299
allocate funds to support community programs, and make 47300
recommendations for needed improvements to boards of alcohol, drug 47301
addiction, and mental health services; 47302

(C) Withhold state and federal funds for any program, in 47303
whole or in part, from a board of alcohol, drug addiction, and 47304
mental health services in the event of failure of that program to 47305
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 47306
or 5119.62 of the Revised Code or rules of the department of 47307
mental health. The director shall identify the areas of 47308
noncompliance and the action necessary to achieve compliance. The 47309
director shall offer technical assistance to the board to achieve 47310
compliance. The director shall give the board a reasonable time 47311
within which to comply or to present its position that it is in 47312
compliance. Before withholding funds, a hearing shall be conducted 47313
to determine if there are continuing violations and that either 47314
assistance is rejected or the board is unable to achieve 47315
compliance. Subsequent to the hearing process, if it is determined 47316
that compliance has not been achieved, the director may allocate 47317
all or part of the withheld funds to a public or private agency to 47318
provide the services not in compliance until the time that there 47319
is compliance. The director shall establish rules pursuant to 47320
Chapter 119. of the Revised Code to implement this division. 47321

(D) Withhold state or federal funds from a board of alcohol, 47322
drug addiction, and mental health services that denies available 47323
service on the basis of religion, race, color, creed, sex, 47324
national origin, age, disability as defined in section 4112.01 of 47325
the Revised Code, developmental disability, or the inability to 47326
pay; 47327

(E) Provide consultative services to community mental health 47328
agencies with the knowledge and cooperation of the board of 47329

alcohol, drug addiction, and mental health services; 47330

(F) Provide to boards of alcohol, drug addiction, and mental 47331
health services state or federal funds, in addition to those 47332
allocated under section 5119.62 of the Revised Code, for special 47333
programs or projects the director considers necessary but for 47334
which local funds are not available; 47335

(G) Establish criteria by which a board of alcohol, drug 47336
addiction, and mental health services reviews and evaluates the 47337
quality, effectiveness, and efficiency of services provided 47338
through its community mental health plan. The criteria shall 47339
include requirements ensuring appropriate service utilization. The 47340
department shall assess a board's evaluation of services and the 47341
compliance of each board with this section, Chapter 340. or 47342
section 5119.62 of the Revised Code, and other state or federal 47343
law and regulations. The department, in cooperation with the 47344
board, periodically shall review and evaluate the quality, 47345
effectiveness, and efficiency of services provided through each 47346
board. The department shall collect information that is necessary 47347
to perform these functions. 47348

(H) Develop and operate a community mental health information 47349
system. 47350

Boards of alcohol, drug abuse, and mental health services 47351
shall submit information requested by the department in the form 47352
and manner prescribed by the department. Information collected by 47353
the department shall include, but not be limited to, all of the 47354
following: 47355

(1) Information regarding units of services provided in whole 47356
or in part under contract with a board, including diagnosis and 47357
special needs, demographic information, the number of units of 47358
service provided, past treatment, financial status, and service 47359
dates in accordance with rules adopted by the department in 47360

accordance with Chapter 119. of the Revised Code; 47361

(2) Financial information other than price or price-related 47362
data regarding expenditures of boards and community mental health 47363
agencies, including units of service provided, budgeted and actual 47364
expenses by type, and sources of funds. 47365

Boards shall submit the information specified in division 47366
(H)(1) of this section no less frequently than annually for each 47367
client, and each time the client's case is opened or closed. The 47368
department shall not collect any information for the purpose of 47369
identifying by name any person who receives a service through a 47370
board of alcohol, drug addiction, and mental health services, 47371
except as required by state or federal law to validate appropriate 47372
reimbursement. For the purposes of division (H)(1) of this 47373
section, the department shall use an identification system that is 47374
consistent with applicable nationally recognized standards. 47375

(I) Review each board's community mental health plan 47376
submitted pursuant to section 340.03 of the Revised Code and 47377
approve or disapprove it in whole or in part. Periodically, in 47378
consultation with representatives of boards and after considering 47379
the recommendations of the medical director, the director shall 47380
issue criteria for determining when a plan is complete, criteria 47381
for plan approval or disapproval, and provisions for conditional 47382
approval. The factors that the director considers may include, but 47383
are not limited to, the following: 47384

(1) The mental health needs of all persons residing within 47385
the board's service district, especially severely mentally 47386
disabled children, adolescents, and adults; 47387

(2) The demonstrated quality, effectiveness, efficiency, and 47388
cultural relevance of the services provided in each service 47389
district, the extent to which any services are duplicative of 47390
other available services, and whether the services meet the needs 47391

identified above; 47392

(3) The adequacy of the board's accounting for the 47393
expenditure of funds. 47394

If the director disapproves all or part of any plan, the 47395
director shall provide the board an opportunity to present its 47396
position. The director shall inform the board of the reasons for 47397
the disapproval and of the criteria that must be met before the 47398
plan may be approved. The director shall give the board a 47399
reasonable time within which to meet the criteria, and shall offer 47400
technical assistance to the board to help it meet the criteria. 47401

If the approval of a plan remains in dispute thirty days 47402
prior to the conclusion of the fiscal year in which the board's 47403
current plan is scheduled to expire, the board or the director may 47404
request that the dispute be submitted to a mutually agreed upon 47405
third-party mediator with the cost to be shared by the board and 47406
the department. The mediator shall issue to the board and the 47407
department recommendations for resolution of the dispute. Prior to 47408
the conclusion of the fiscal year in which the current plan is 47409
scheduled to expire, the director, taking into consideration the 47410
recommendations of the mediator, shall make a final determination 47411
and approve or disapprove the plan, in whole or in part. 47412

Sec. 5119.611. (A) A board of alcohol, drug addiction, and 47413
mental health services may not contract with a community mental 47414
health agency under division (A)(8)(a) of section 340.03 of the 47415
Revised Code to provide community mental health services included 47416
in the board's community mental health plan unless the services 47417
are certified by the director of mental health under this section. 47418

A community mental health agency that seeks the director's 47419
certification of its community mental health services shall submit 47420
an application to the director. On receipt of the application, the 47421
director may visit and shall evaluate the agency to determine 47422

whether its services satisfy the standards established by rules 47423
adopted under division (C) of this section. The director shall 47424
make the evaluation, and, if the director visits the agency, shall 47425
make the visit, in cooperation with the board of alcohol, drug 47426
addiction, and mental health services with which the agency seeks 47427
to contract. 47428

If the director determines that a community mental health 47429
agency's services satisfy the standards, the director shall 47430
certify the services. 47431

If the director determines that a community mental health 47432
agency's services do not satisfy the standards, the director shall 47433
identify the areas of noncompliance, specify what action is 47434
necessary to satisfy the standards, and offer technical assistance 47435
to the board of alcohol, drug addiction, and mental health 47436
services so that the board may assist the agency in satisfying the 47437
standards. The director shall give the agency a reasonable time 47438
within which to demonstrate that its services satisfy the 47439
standards or to bring the services into compliance with the 47440
standards. If the director concludes that the services continue to 47441
fail to satisfy the standards, the director may request that the 47442
board reallocate the funds for the community mental health 47443
services the agency was to provide to another community mental 47444
health agency whose community mental health services satisfy the 47445
standards. If the board does not reallocate those funds in a 47446
reasonable period of time, the director may withhold state and 47447
federal funds for the community mental health services and 47448
allocate those funds directly to a community mental health agency 47449
whose community mental health services satisfy the standards. 47450

(B) Each community mental health agency seeking certification 47451
of its community mental health services under this section shall 47452
pay a fee for the certification review required by this section. 47453
Fees shall be paid into the sale of goods and services fund 47454

created pursuant to section 5119.161 of the Revised Code. 47455

(C) The director shall adopt rules in accordance with Chapter 47456
119. of the Revised Code to implement this section. The rules 47457
shall do all of the following: 47458

(1) Establish certification standards for community mental 47459
health services, including assertive community treatment and 47460
intensive home-based mental health services, that are consistent 47461
with nationally recognized applicable standards and facilitate 47462
participation in federal assistance programs. The rules shall 47463
include as certification standards only requirements that improve 47464
the quality of services or the health and safety of clients of 47465
community mental health services. The standards shall address at a 47466
minimum all of the following: 47467

(a) Reporting major unusual incidents to the director; 47468

(b) Procedures for applicants for and clients of community 47469
mental health services to file grievances and complaints; 47470

(c) Seclusion; 47471

(d) Restraint; 47472

(e) Development of written policies addressing the rights of 47473
clients, including all of the following: 47474

(i) The right to a copy of the written policies addressing 47475
client rights; 47476

(ii) The right at all times to be treated with consideration 47477
and respect for the client's privacy and dignity; 47478

(iii) The right to have access to the client's own 47479
psychiatric, medical, or other treatment records unless access is 47480
specifically restricted in the client's treatment plan for clear 47481
treatment reasons; 47482

(iv) The right to have a client rights officer provided by 47483
the agency or board of alcohol, drug addiction, and mental health 47484

services advise the client of the client's rights, including the 47485
client's rights under Chapter 5122. of the Revised Code if the 47486
client is committed to the agency or board. 47487

(2) Establish standards for qualifications of mental health 47488
professionals as defined in section 340.02 of the Revised Code and 47489
personnel who provide the community mental health services; 47490

(3) Establish the process for certification of community 47491
mental health services; 47492

(4) Set the amount of certification review fees based on a 47493
portion of the cost of performing the review; 47494

(5) Specify the type of notice and hearing to be provided 47495
prior to a decision on whether to reallocate funds. 47496

(D) The rules adopted under division (C)(1) of this section 47497
to establish certification standards for assertive community 47498
treatment and intensive home-based mental health services shall be 47499
adopted not later than July 1, 2004. 47500

Sec. 5123.01. As used in this chapter: 47501

(A) "Chief medical officer" means the licensed physician 47502
appointed by the managing officer of an institution for the 47503
mentally retarded with the approval of the director of mental 47504
retardation and developmental disabilities to provide medical 47505
treatment for residents of the institution. 47506

(B) "Chief program director" means a person with special 47507
training and experience in the diagnosis and management of the 47508
mentally retarded, certified according to division (C) of this 47509
section in at least one of the designated fields, and appointed by 47510
the managing officer of an institution for the mentally retarded 47511
with the approval of the director to provide habilitation and care 47512
for residents of the institution. 47513

(C) "Comprehensive evaluation" means a study, including a 47514

sequence of observations and examinations, of a person leading to 47515
conclusions and recommendations formulated jointly, with 47516
dissenting opinions if any, by a group of persons with special 47517
training and experience in the diagnosis and management of persons 47518
with mental retardation or a developmental disability, which group 47519
shall include individuals who are professionally qualified in the 47520
fields of medicine, psychology, and social work, together with 47521
such other specialists as the individual case may require. 47522

(D) "Education" means the process of formal training and 47523
instruction to facilitate the intellectual and emotional 47524
development of residents. 47525

(E) "Habilitation" means the process by which the staff of 47526
the institution assists the resident in acquiring and maintaining 47527
those life skills that enable the resident to cope more 47528
effectively with the demands of the resident's own person and of 47529
the resident's environment and in raising the level of the 47530
resident's physical, mental, social, and vocational efficiency. 47531
Habilitation includes but is not limited to programs of formal, 47532
structured education and training. 47533

(F) "Habilitation center services" means services provided by 47534
a habilitation center certified by the department of mental 47535
retardation and developmental disabilities under section 5123.041 47536
of the Revised Code and covered by the medicaid program pursuant 47537
to rules adopted under section 5111.041 of the Revised Code. 47538

(G) "Health officer" means any public health physician, 47539
public health nurse, or other person authorized or designated by a 47540
city or general health district. 47541

(H) "Home and community-based services" means medicaid-funded 47542
home and community-based services provided under a the medicaid 47543
~~component~~ components the department of mental retardation and 47544
developmental disabilities administers pursuant to section 47545

5111.871 of the Revised Code. 47546

(I) "Indigent person" means a person who is unable, without 47547
substantial financial hardship, to provide for the payment of an 47548
attorney and for other necessary expenses of legal representation, 47549
including expert testimony. 47550

(J) "Institution" means a public or private facility, or a 47551
part of a public or private facility, that is licensed by the 47552
appropriate state department and is equipped to provide 47553
residential habilitation, care, and treatment for the mentally 47554
retarded. 47555

(K) "Licensed physician" means a person who holds a valid 47556
certificate issued under Chapter 4731. of the Revised Code 47557
authorizing the person to practice medicine and surgery or 47558
osteopathic medicine and surgery, or a medical officer of the 47559
government of the United States while in the performance of the 47560
officer's official duties. 47561

(L) "Managing officer" means a person who is appointed by the 47562
director of mental retardation and developmental disabilities to 47563
be in executive control of an institution for the mentally 47564
retarded under the jurisdiction of the department. 47565

(M) "Medicaid" has the same meaning as in section 5111.01 of 47566
the Revised Code. 47567

(N) "Medicaid case management services" means case management 47568
services provided to an individual with mental retardation or 47569
other developmental disability that the state medicaid plan 47570
requires. 47571

(O) "Mentally retarded person" means a person having 47572
significantly subaverage general intellectual functioning existing 47573
concurrently with deficiencies in adaptive behavior, manifested 47574
during the developmental period. 47575

(P) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(Q) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(R) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

- (2) It is manifested before age twenty-two. 47606
- (3) It is likely to continue indefinitely. 47607
- (4) It results in one of the following: 47608
- (a) In the case of a person under three years of age, at 47609
least one developmental delay or an established risk; 47610
- (b) In the case of a person at least three years of age but 47611
under six years of age, at least two developmental delays or an 47612
established risk; 47613
- (c) In the case of a person six years of age or older, a 47614
substantial functional limitation in at least three of the 47615
following areas of major life activity, as appropriate for the 47616
person's age: self-care, receptive and expressive language, 47617
learning, mobility, self-direction, capacity for independent 47618
living, and, if the person is at least sixteen years of age, 47619
capacity for economic self-sufficiency. 47620
- (5) It causes the person to need a combination and sequence 47621
of special, interdisciplinary, or other type of care, treatment, 47622
or provision of services for an extended period of time that is 47623
individually planned and coordinated for the person. 47624
- (S) "Developmentally disabled person" means a person with a 47625
developmental disability. 47626
- (T) "State institution" means an institution that is 47627
tax-supported and under the jurisdiction of the department. 47628
- (U) "Residence" and "legal residence" have the same meaning 47629
as "legal settlement," which is acquired by residing in Ohio for a 47630
period of one year without receiving general assistance prior to 47631
July 17, 1995, under former Chapter 5113. of the Revised Code, 47632
~~disability~~ financial assistance under Chapter 5115. of the Revised 47633
Code, or assistance from a private agency that maintains records 47634
of assistance given. A person having a legal settlement in the 47635

state shall be considered as having legal settlement in the 47636
assistance area in which the person resides. No adult person 47637
coming into this state and having a spouse or minor children 47638
residing in another state shall obtain a legal settlement in this 47639
state as long as the spouse or minor children are receiving public 47640
assistance, care, or support at the expense of the other state or 47641
its subdivisions. For the purpose of determining the legal 47642
settlement of a person who is living in a public or private 47643
institution or in a home subject to licensing by the department of 47644
job and family services, the department of mental health, or the 47645
department of mental retardation and developmental disabilities, 47646
the residence of the person shall be considered as though the 47647
person were residing in the county in which the person was living 47648
prior to the person's entrance into the institution or home. 47649
Settlement once acquired shall continue until a person has been 47650
continuously absent from Ohio for a period of one year or has 47651
acquired a legal residence in another state. A woman who marries a 47652
man with legal settlement in any county immediately acquires the 47653
settlement of her husband. The legal settlement of a minor is that 47654
of the parents, surviving parent, sole parent, parent who is 47655
designated the residential parent and legal custodian by a court, 47656
other adult having permanent custody awarded by a court, or 47657
guardian of the person of the minor, provided that: 47658

(1) A minor female who marries shall be considered to have 47659
the legal settlement of her husband and, in the case of death of 47660
her husband or divorce, she shall not thereby lose her legal 47661
settlement obtained by the marriage. 47662

(2) A minor male who marries, establishes a home, and who has 47663
resided in this state for one year without receiving general 47664
assistance prior to July 17, 1995, under former Chapter 5113. of 47665
the Revised Code, ~~disability~~ financial assistance under Chapter 47666
5115. of the Revised Code, or assistance from a private agency 47667

that maintains records of assistance given shall be considered to 47668
have obtained a legal settlement in this state. 47669

(3) The legal settlement of a child under eighteen years of 47670
age who is in the care or custody of a public or private child 47671
caring agency shall not change if the legal settlement of the 47672
parent changes until after the child has been in the home of the 47673
parent for a period of one year. 47674

No person, adult or minor, may establish a legal settlement 47675
in this state for the purpose of gaining admission to any state 47676
institution. 47677

(V)(1) "Resident" means, subject to division (R)(2) of this 47678
section, a person who is admitted either voluntarily or 47679
involuntarily to an institution or other facility pursuant to 47680
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 47681
Code subsequent to a finding of not guilty by reason of insanity 47682
or incompetence to stand trial or under this chapter who is under 47683
observation or receiving habilitation and care in an institution. 47684

(2) "Resident" does not include a person admitted to an 47685
institution or other facility under section 2945.39, 2945.40, 47686
2945.401, or 2945.402 of the Revised Code to the extent that the 47687
reference in this chapter to resident, or the context in which the 47688
reference occurs, is in conflict with any provision of sections 47689
2945.37 to 2945.402 of the Revised Code. 47690

(W) "Respondent" means the person whose detention, 47691
commitment, or continued commitment is being sought in any 47692
proceeding under this chapter. 47693

(X) "Working day" and "court day" mean Monday, Tuesday, 47694
Wednesday, Thursday, and Friday, except when such day is a legal 47695
holiday. 47696

(Y) "Prosecutor" means the prosecuting attorney, village 47697
solicitor, city director of law, or similar chief legal officer 47698

who prosecuted a criminal case in which a person was found not 47699
guilty by reason of insanity, who would have had the authority to 47700
prosecute a criminal case against a person if the person had not 47701
been found incompetent to stand trial, or who prosecuted a case in 47702
which a person was found guilty. 47703

(Z) "Court" means the probate division of the court of common 47704
pleas. 47705

Sec. 5123.051. (A) If the department of mental retardation 47706
and developmental disabilities determines pursuant to an audit 47707
conducted under section 5123.05 of the Revised Code or a 47708
reconciliation conducted under section 5123.18 or ~~5111.252~~ 47709
5123.199 of the Revised Code that money is owed the state by a 47710
provider of a service or program, the department may enter into a 47711
payment agreement with the provider. The agreement shall include 47712
the following: 47713

(1) A schedule of installment payments whereby the money owed 47714
the state is to be paid in full within a period not to exceed one 47715
year; 47716

(2) A provision that the provider may pay the entire balance 47717
owed at any time during the term of the agreement; 47718

(3) A provision that if any installment is not paid in full 47719
within forty-five days after it is due, the entire balance owed is 47720
immediately due and payable; 47721

(4) Any other terms and conditions that are agreed to by the 47722
department and the provider. 47723

(B) The department may include a provision in a payment 47724
agreement that requires the provider to pay interest on the money 47725
owed the state. The department, in its discretion, shall determine 47726
whether to require the payment of interest and, if it so requires, 47727
the rate of interest. Neither the obligation to pay interest nor 47728

the rate of interest is subject to negotiation between the 47729
department and the provider. 47730

(C) If the provider fails to pay any installment in full 47731
within forty-five days after its due date, the department shall 47732
certify the entire balance owed to the attorney general for 47733
collection under section 131.02 of the Revised Code. The 47734
department may withhold funds from payments made to a provider 47735
under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to 47736
satisfy a judgment secured by the attorney general. 47737

(D) The purchase of service fund is hereby created. Money 47738
credited to the fund shall be used solely for purposes of section 47739
5123.05 of the Revised Code. 47740

Sec. 5123.19. (A) As used in this section and in sections 47741
5123.191, 5123.194, 5123.196, 5123.197, 5123.198, 5123.1910, and 47742
5123.20 of the Revised Code: 47743

(1)(a) "Residential facility" means a home or facility in 47744
which a mentally retarded or developmentally disabled person 47745
resides, except the home of a relative or legal guardian in which 47746
a mentally retarded or developmentally disabled person resides, a 47747
respite care home certified under section 5126.05 of the Revised 47748
Code, a county home or district home operated pursuant to Chapter 47749
5155. of the Revised Code, or a dwelling in which the only 47750
mentally retarded or developmentally disabled residents are in an 47751
independent living arrangement or are being provided supported 47752
living. 47753

(b) "Intermediate care facility for the mentally retarded" 47754
means a residential facility that is considered an intermediate 47755
care facility for the mentally retarded for the purposes of 47756
Chapter 5111. of the Revised Code. 47757

(2) "Political subdivision" means a municipal corporation, 47758

county, or township. 47759

(3) "Independent living arrangement" means an arrangement in 47760
which a mentally retarded or developmentally disabled person 47761
resides in an individualized setting chosen by the person or the 47762
person's guardian, which is not dedicated principally to the 47763
provision of residential services for mentally retarded or 47764
developmentally disabled persons, and for which no financial 47765
support is received for rendering such service from any 47766
governmental agency by a provider of residential services. 47767

(4) "Supported living" has the same meaning as in section 47768
5126.01 of the Revised Code. 47769

(5) "Licensee" means the person or government agency that has 47770
applied for a license to operate a residential facility and to 47771
which the license was issued under this section. 47772

(B) Every person or government agency desiring to operate a 47773
residential facility shall apply for licensure of the facility to 47774
the director of mental retardation and developmental disabilities 47775
unless the residential facility is subject to section 3721.02, 47776
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 47777
Chapter 3721. of the Revised Code, a nursing home that is 47778
certified as an intermediate care facility for the mentally 47779
retarded under Title XIX of the "Social Security Act," 79 Stat. 47780
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 47781
licensure of the portion of the home that is certified as an 47782
intermediate care facility for the mentally retarded. 47783

(C) ~~The~~ Subject to section 5123.196 of the Revised Code, the 47784
director of mental retardation and developmental disabilities 47785
shall license the operation of residential facilities. An initial 47786
license shall be issued for a period that does not exceed one 47787
year, unless the director denies the license under division (D) of 47788
this section. A license shall be renewed for a period that does 47789

not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

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

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

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

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this

section. If the suspension of admissions is imposed for a 47822
violation that may result in sanctions under division (D)(1) of 47823
this section, the director may impose the suspension before 47824
providing an opportunity for an adjudication under Chapter 119. of 47825
the Revised Code. The director shall lift an order for the 47826
suspension of admissions when the director determines that the 47827
violation that formed the basis for the order has been corrected. 47828

(4) The director may order the placement of a monitor at a 47829
residential facility for any violation specified in rules adopted 47830
under division (G)(2) of this section. The director shall lift the 47831
order when the director determines that the violation that formed 47832
the basis for the order has been corrected. 47833

(5) If the director determines that two or more residential 47834
facilities owned or operated by the same person or government 47835
entity are not being operated in compliance with a provision of 47836
this chapter that applies to residential facilities or the rules 47837
adopted under such a provision, and the director's findings are 47838
based on the same or a substantially similar action, practice, 47839
circumstance, or incident that creates a substantial risk to the 47840
health and safety of the residents, the director shall conduct a 47841
survey as soon as practicable at each residential facility owned 47842
or operated by that person or government entity. The director may 47843
take any action authorized by this section with respect to any 47844
facility found to be operating in violation of a provision of this 47845
chapter that applies to residential facilities or the rules 47846
adopted under such a provision. 47847

(6) When the director initiates license revocation 47848
proceedings, no opportunity for submitting a plan of correction 47849
shall be given. The director shall notify the licensee by letter 47850
of the initiation of such proceedings. The letter shall list the 47851
deficiencies of the residential facility and inform the licensee 47852
that no plan of correction will be accepted. The director shall 47853

also notify each affected resident, the resident's guardian if the 47854
resident is an adult for whom a guardian has been appointed, the 47855
resident's parent or guardian if the resident is a minor, and the 47856
county board of mental retardation and developmental disabilities. 47857

(7) Pursuant to rules which shall be adopted in accordance 47858
with Chapter 119. of the Revised Code, the director may order the 47859
immediate removal of residents from a residential facility 47860
whenever conditions at the facility present an immediate danger of 47861
physical or psychological harm to the residents. 47862

(8) In determining whether a residential facility is being 47863
operated in compliance with a provision of this chapter that 47864
applies to residential facilities or the rules adopted under such 47865
a provision, or whether conditions at a residential facility 47866
present an immediate danger of physical or psychological harm to 47867
the residents, the director may rely on information obtained by a 47868
county board of mental retardation and developmental disabilities 47869
or other governmental agencies. 47870

(9) In proceedings initiated to deny, refuse to renew, or 47871
revoke licenses, the director may deny, refuse to renew, or revoke 47872
a license regardless of whether some or all of the deficiencies 47873
that prompted the proceedings have been corrected at the time of 47874
the hearing. 47875

(E) The director shall establish a program under which public 47876
notification may be made when the director has initiated license 47877
revocation proceedings or has issued an order for the suspension 47878
of admissions, placement of a monitor, or removal of residents. 47879
The director shall adopt rules in accordance with Chapter 119. of 47880
the Revised Code to implement this division. The rules shall 47881
establish the procedures by which the public notification will be 47882
made and specify the circumstances for which the notification must 47883
be made. The rules shall require that public notification be made 47884
if the director has taken action against the facility in the 47885

eighteen-month period immediately preceding the director's latest 47886
action against the facility and the latest action is being taken 47887
for the same or a substantially similar violation of a provision 47888
of this chapter that applies to residential facilities or the 47889
rules adopted under such a provision. The rules shall specify a 47890
method for removing or amending the public notification if the 47891
director's action is found to have been unjustified or the 47892
violation at the residential facility has been corrected. 47893

(F)(1) Except as provided in division (F)(2) of this section, 47894
appeals from proceedings initiated to impose a sanction under 47895
division (D) of this section shall be conducted in accordance with 47896
Chapter 119. of the Revised Code. 47897

(2) Appeals from proceedings initiated to order the 47898
suspension of admissions to a facility shall be conducted in 47899
accordance with Chapter 119. of the Revised Code, unless the order 47900
was issued before providing an opportunity for an adjudication, in 47901
which case all of the following apply: 47902

(a) The licensee may request a hearing not later than ten 47903
days after receiving the notice specified in section 119.07 of the 47904
Revised Code. 47905

(b) If a timely request for a hearing is made, the hearing 47906
shall commence not later than thirty days after the department 47907
receives the request. 47908

(c) After commencing, the hearing shall continue 47909
uninterrupted, except for Saturdays, Sundays, and legal holidays, 47910
unless other interruptions are agreed to by the licensee and the 47911
director. 47912

(d) If the hearing is conducted by a hearing examiner, the 47913
hearing examiner shall file a report and recommendations not later 47914
than ten days after the close of the hearing. 47915

(e) Not later than five days after the hearing examiner files 47916

the report and recommendations, the licensee may file objections 47917
to the report and recommendations. 47918

(f) Not later than fifteen days after the hearing examiner 47919
files the report and recommendations, the director shall issue an 47920
order approving, modifying, or disapproving the report and 47921
recommendations. 47922

(g) Notwithstanding the pendency of the hearing, the director 47923
shall lift the order for the suspension of admissions when the 47924
director determines that the violation that formed the basis for 47925
the order has been corrected. 47926

(G) In accordance with Chapter 119. of the Revised Code, the 47927
director shall adopt and may amend and rescind rules for licensing 47928
and regulating the operation of residential facilities, including 47929
intermediate care facilities for the mentally retarded. The rules 47930
for intermediate care facilities for the mentally retarded may 47931
differ from those for other residential facilities. The rules 47932
shall establish and specify the following: 47933

(1) Procedures and criteria for issuing and renewing 47934
licenses, including procedures and criteria for determining the 47935
length of the licensing period that the director must specify for 47936
each license when it is issued or renewed; 47937

(2) Procedures and criteria for denying, refusing to renew, 47938
terminating, and revoking licenses and for ordering the suspension 47939
of admissions to a facility, placement of a monitor at a facility, 47940
and the immediate removal of residents from a facility; 47941

(3) Fees for issuing and renewing licenses; 47942

(4) Procedures for surveying residential facilities; 47943

(5) Requirements for the training of residential facility 47944
personnel; 47945

(6) Classifications for the various types of residential 47946

facilities;	47947
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	47948 47949 47950 47951
(8) The maximum number of persons who may be served in a particular type of residential facility;	47952 47953
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	47954 47955
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	47956 47957
(11) Procedures for waiving any provision of any rule adopted under this section.	47958 47959
(H) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	47960 47961 47962 47963 47964 47965 47966 47967 47968
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.	47969 47970 47971 47972 47973 47974 47975 47976 47977

Following each survey, unless the director initiates a 47978
license revocation proceeding, the director or the director's 47979
designee shall provide the licensee with a report listing any 47980
deficiencies, specifying a timetable within which the licensee 47981
shall submit a plan of correction describing how the deficiencies 47982
will be corrected, and, when appropriate, specifying a timetable 47983
within which the licensee must correct the deficiencies. After a 47984
plan of correction is submitted, the director or the director's 47985
designee shall approve or disapprove the plan. A copy of the 47986
report and any approved plan of correction shall be provided to 47987
any person who requests it. 47988

The director shall initiate disciplinary action against any 47989
department employee who notifies or causes the notification to any 47990
unauthorized person of an unannounced survey of a residential 47991
facility by an authorized representative of the department. 47992

(I) In addition to any other information which may be 47993
required of applicants for a license pursuant to this section and 47994
except as provided in section 5123.1910 of the Revised Code, the 47995
director shall require each applicant to provide a copy of an 47996
approved plan for a proposed residential facility pursuant to 47997
section 5123.042 of the Revised Code. This division does not apply 47998
to renewal of a license. 47999

(J) A licensee shall notify the owner of the building in 48000
which the licensee's residential facility is located of any 48001
significant change in the identity of the licensee or management 48002
contractor before the effective date of the change if the licensee 48003
is not the owner of the building. 48004

Pursuant to rules which shall be adopted in accordance with 48005
Chapter 119. of the Revised Code, the director may require 48006
notification to the department of any significant change in the 48007
ownership of a residential facility or in the identity of the 48008

licensee or management contractor. If the director determines that 48009
a significant change of ownership is proposed, the director shall 48010
consider the proposed change to be an application for development 48011
by a new operator pursuant to section 5123.042 of the Revised Code 48012
and shall advise the applicant within sixty days of such 48013
notification that the current license shall continue in effect or 48014
a new license will be required pursuant to this section. If the 48015
director requires a new license, the director shall permit the 48016
facility to continue to operate under the current license until 48017
the new license is issued, unless the current license is revoked, 48018
refused to be renewed, or terminated in accordance with Chapter 48019
119. of the Revised Code. 48020

(K) A county board of mental retardation and developmental 48021
disabilities, the legal rights service, and any interested person 48022
may file complaints alleging violations of statute or department 48023
rule relating to residential facilities with the department. All 48024
complaints shall be in writing and shall state the facts 48025
constituting the basis of the allegation. The department shall not 48026
reveal the source of any complaint unless the complainant agrees 48027
in writing to waive the right to confidentiality or until so 48028
ordered by a court of competent jurisdiction. 48029

The department shall adopt rules in accordance with Chapter 48030
119. of the Revised Code establishing procedures for the receipt, 48031
referral, investigation, and disposition of complaints filed with 48032
the department under this division. 48033

(L) The department shall establish procedures for the 48034
notification of interested parties of the transfer or interim care 48035
of residents from residential facilities that are closing or are 48036
losing their license. 48037

(M) Before issuing a license under this section to a 48038
residential facility that will accommodate at any time more than 48039
one mentally retarded or developmentally disabled individual, the 48040

director shall, by first class mail, notify the following: 48041

(1) If the facility will be located in a municipal 48042
corporation, the clerk of the legislative authority of the 48043
municipal corporation; 48044

(2) If the facility will be located in unincorporated 48045
territory, the clerk of the appropriate board of county 48046
commissioners and the clerk of the appropriate board of township 48047
trustees. 48048

The director shall not issue the license for ten days after 48049
mailing the notice, excluding Saturdays, Sundays, and legal 48050
holidays, in order to give the notified local officials time in 48051
which to comment on the proposed issuance. 48052

Any legislative authority of a municipal corporation, board 48053
of county commissioners, or board of township trustees that 48054
receives notice under this division of the proposed issuance of a 48055
license for a residential facility may comment on it in writing to 48056
the director within ten days after the director mailed the notice, 48057
excluding Saturdays, Sundays, and legal holidays. If the director 48058
receives written comments from any notified officials within the 48059
specified time, the director shall make written findings 48060
concerning the comments and the director's decision on the 48061
issuance of the license. If the director does not receive written 48062
comments from any notified local officials within the specified 48063
time, the director shall continue the process for issuance of the 48064
license. 48065

(N) Any person may operate a licensed residential facility 48066
that provides room and board, personal care, habilitation 48067
services, and supervision in a family setting for at least six but 48068
not more than eight persons with mental retardation or a 48069
developmental disability as a permitted use in any residential 48070
district or zone, including any single-family residential district 48071

or zone, of any political subdivision. These residential 48072
facilities may be required to comply with area, height, yard, and 48073
architectural compatibility requirements that are uniformly 48074
imposed upon all single-family residences within the district or 48075
zone. 48076

(O) Any person may operate a licensed residential facility 48077
that provides room and board, personal care, habilitation 48078
services, and supervision in a family setting for at least nine 48079
but not more than sixteen persons with mental retardation or a 48080
developmental disability as a permitted use in any multiple-family 48081
residential district or zone of any political subdivision, except 48082
that a political subdivision that has enacted a zoning ordinance 48083
or resolution establishing planned unit development districts may 48084
exclude these residential facilities from such districts, and a 48085
political subdivision that has enacted a zoning ordinance or 48086
resolution may regulate these residential facilities in 48087
multiple-family residential districts or zones as a conditionally 48088
permitted use or special exception, in either case, under 48089
reasonable and specific standards and conditions set out in the 48090
zoning ordinance or resolution to: 48091

(1) Require the architectural design and site layout of the 48092
residential facility and the location, nature, and height of any 48093
walls, screens, and fences to be compatible with adjoining land 48094
uses and the residential character of the neighborhood; 48095

(2) Require compliance with yard, parking, and sign 48096
regulation; 48097

(3) Limit excessive concentration of these residential 48098
facilities. 48099

(P) This section does not prohibit a political subdivision 48100
from applying to residential facilities nondiscriminatory 48101
regulations requiring compliance with health, fire, and safety 48102

regulations and building standards and regulations. 48103

(Q) Divisions (N) and (O) of this section are not applicable 48104
to municipal corporations that had in effect on June 15, 1977, an 48105
ordinance specifically permitting in residential zones licensed 48106
residential facilities by means of permitted uses, conditional 48107
uses, or special exception, so long as such ordinance remains in 48108
effect without any substantive modification. 48109

(R)(1) The director may issue an interim license to operate a 48110
residential facility to an applicant for a license under this 48111
section if either of the following is the case: 48112

(a) The director determines that an emergency exists 48113
requiring immediate placement of persons in a residential 48114
facility, that insufficient licensed beds are available, and that 48115
the residential facility is likely to receive a permanent license 48116
under this section within thirty days after issuance of the 48117
interim license. 48118

(b) The director determines that the issuance of an interim 48119
license is necessary to meet a temporary need for a residential 48120
facility. 48121

(2) To be eligible to receive an interim license, an 48122
applicant must meet the same criteria that must be met to receive 48123
a permanent license under this section, except for any differing 48124
procedures and time frames that may apply to issuance of a 48125
permanent license. 48126

(3) An interim license shall be valid for thirty days and may 48127
be renewed by the director for a period not to exceed one hundred 48128
fifty days. 48129

(4) The director shall adopt rules in accordance with Chapter 48130
119. of the Revised Code as the director considers necessary to 48131
administer the issuance of interim licenses. 48132

(S) Notwithstanding rules adopted pursuant to this section 48133
establishing the maximum number of persons who may be served in a 48134
particular type of residential facility, a residential facility 48135
shall be permitted to serve the same number of persons being 48136
served by the facility on the effective date of such rules or the 48137
number of persons for which the facility is authorized pursuant to 48138
a current application for a certificate of need with a letter of 48139
support from the department of mental retardation and 48140
developmental disabilities and which is in the review process 48141
prior to April 4, 1986. 48142

(T) The director or the director's designee may enter at any 48143
time, for purposes of investigation, any home, facility, or other 48144
structure that has been reported to the director or that the 48145
director has reasonable cause to believe is being operated as a 48146
residential facility without a license issued under this section. 48147

The director may petition the court of common pleas of the 48148
county in which an unlicensed residential facility is located for 48149
an order enjoining the person or governmental agency operating the 48150
facility from continuing to operate without a license. The court 48151
may grant the injunction on a showing that the person or 48152
governmental agency named in the petition is operating a 48153
residential facility without a license. The court may grant the 48154
injunction, regardless of whether the residential facility meets 48155
the requirements for receiving a license under this section. 48156

(U) Except as provided in section 5123.198 of the Revised 48157
Code, whenever a resident of a residential facility is committed 48158
to a state-operated intermediate care facility for the mentally 48159
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 48160
Code, the department shall reduce by one the maximum number of 48161
residents for which the facility is licensed. 48162

Sec. 5123.196. (A) Except as provided in division (E) of this 48163

section, the director of mental retardation and developmental 48164
disabilities shall not issue a license under section 5123.19 of 48165
the Revised Code on or after July 1, 2003, if issuance will result 48166
in there being more beds in all residential facilities licensed 48167
under that section than is permitted under division (B) of this 48168
section. 48169

(B) The maximum number of beds for the purpose of division 48170
(A) of this section shall not exceed ten thousand eight hundred 48171
thirty-eight minus, except as provided in division (C) of this 48172
section, the number of such beds taken out of service on or after 48173
July 1, 2003, pursuant to section 5123.197 of the Revised Code or 48174
because a residential facility license is revoked, terminated, or 48175
not renewed for any reason or is surrendered. 48176

(C) The director is not required to reduce the maximum number 48177
of beds pursuant to division (B) of this section by a bed taken 48178
out of service if the director determines that the bed is needed 48179
to provide services to an individual with mental retardation or a 48180
developmental disability who resided in the residential facility 48181
in which the bed was located. 48182

(D) The director shall maintain an up-to-date written record 48183
of the maximum number of residential facility beds provided for by 48184
division (B) of this section. 48185

(E) If required by section 5123.1910 of the Revised Code to 48186
issue a license under section 5123.19 of the Revised Code, the 48187
director shall issue the license regardless of whether issuance 48188
will result in there being more beds in all residential facilities 48189
licensed under that section than is permitted under division (B) 48190
of this section. 48191

Sec. 5123.197. A licensee shall take out of service as a 48192
residential facility bed any bed located in the facility that is 48193
converted to use for supported living. The number of residential 48194

facility beds a residential facility is licensed to have shall be 48195
reduced by each bed taken out of service under this section. 48196

Sec. 5123.198. (A) Whenever a resident of an intermediate 48197
care facility for the mentally retarded is committed to a 48198
state-operated intermediate care facility for the mentally 48199
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 48200
Code, the department of mental retardation and developmental 48201
disabilities shall reduce by one the number of residents for which 48202
the facility in which the resident resided is licensed, unless the 48203
facility admits an individual who resides in a state-operated 48204
intermediate care facility for the mentally retarded on the date 48205
of the commitment or another individual determined to need the 48206
level of care provided by such a facility and designated by the 48207
department not later than ninety days after the date of the 48208
commitment. 48209

(B) The department of mental retardation and developmental 48210
disabilities may notify the department of job and family services 48211
of any reduction under this section in the number of residents for 48212
which a facility is licensed. On receiving the notice, the 48213
department of job and family services may transfer to the 48214
department of mental retardation and developmental disabilities 48215
the savings in the nonfederal share of medicaid expenditures for 48216
each fiscal year after the year of the commitment to be used for 48217
costs of the resident's care in the state-operated intermediate 48218
care facility for the mentally retarded. In determining the amount 48219
saved, the department of job and family services shall consider 48220
medicaid payments for the remaining residents of the facility in 48221
which the resident resided. 48222

Sec. 5111.252 5123.199. (A) As used in this section: 48223

(1) "Contractor" means a person or government agency that has 48224

entered into a contract with the department of mental retardation 48225
and developmental disabilities under this section. 48226

(2) "Government agency" and "residential services" have the 48227
same meanings as in section 5123.18 of the Revised Code. 48228

(3) "Intermediate care facility for the mentally retarded" 48229
has the same meaning as in section 5111.20 of the Revised Code. 48230

(4) "Respite care services" has the same meaning as in 48231
section 5123.171 of the Revised Code. 48232

(B) The department of mental retardation and developmental 48233
disabilities may enter into a contract with a person or government 48234
agency to do any of the following: 48235

(1) Provide residential services in an intermediate care 48236
facility for the mentally retarded to an individual who meets the 48237
criteria for admission to such a facility but is not eligible for 48238
assistance under ~~this chapter~~ Chapter 5111. of the Revised Code 48239
due to unliquidated assets subject to final probate action; 48240

(2) Provide respite care services in an intermediate care 48241
facility for the mentally retarded; 48242

(3) Provide residential services in a facility for which the 48243
person or government agency has applied for, but has not received, 48244
certification and payment as an intermediate care facility for the 48245
mentally retarded if the person or government agency is making a 48246
good faith effort to bring the facility into compliance with 48247
requirements for certification and payment as an intermediate care 48248
facility for the mentally retarded. In assigning payment amounts 48249
to such contracts, the department shall take into account costs 48250
incurred in attempting to meet certification requirements. 48251

(4) Reimburse an intermediate care facility for the mentally 48252
retarded for costs not otherwise reimbursed under ~~this chapter~~ 48253
Chapter 5111. of the Revised Code for clothing for individuals who 48254

are mentally retarded or developmentally disabled. Reimbursement 48255
under such contracts shall not exceed a maximum amount per 48256
individual per year specified in rules that the department shall 48257
adopt in accordance with Chapter 119. of the Revised Code. 48258

(C) The amount paid to a contractor under divisions (B)(1) to 48259
(3) of this section shall not exceed the reimbursement that would 48260
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 48261
the department of job and family services for the same goods and 48262
services. 48263

(D) The department of mental retardation and developmental 48264
disabilities shall adopt rules as necessary to implement this 48265
section, including rules establishing standards and procedures for 48266
the submission of cost reports by contractors and the department's 48267
conduct of audits and reconciliations regarding the contracts. The 48268
rules shall be adopted in accordance with Chapter 119. of the 48269
Revised Code. 48270

Sec. 5123.1910. (A) The director of mental retardation and 48271
developmental disabilities shall issue one or more residential 48272
facility licenses under section 5123.19 of the Revised Code to an 48273
applicant without requiring the applicant to have plans submitted, 48274
reviewed, or approved under section 5123.042 of the Revised Code 48275
for the residential facility if all of the following requirements 48276
are met: 48277

(1) The applicant satisfies the requirements for the license 48278
established by section 5123.19 of the Revised Code and rules 48279
adopted under that section, other than any rule that requires an 48280
applicant for a residential facility license to have plans 48281
submitted, reviewed, or approved under section 5123.042 of the 48282
Revised Code for the residential facility. 48283

(2) The applicant operates at least one residential facility 48284
licensed under section 5123.19 of the Revised Code on the 48285

effective date of this section. 48286

(3) The applicant provides services to individuals with 48287
mental retardation or a developmental disability who have a 48288
chronic, medically complex, or technology-dependent condition that 48289
requires special supervision or care, the majority of whom 48290
received habilitation services from the applicant before attaining 48291
eighteen years of age. 48292

(4) The applicant has created directly or through a corporate 48293
affiliate a research center that has the mission of funding, 48294
promoting, and carrying on scientific research in the public 48295
interest related to individuals with mental retardation or a 48296
developmental disability for the purpose of improving the lives of 48297
such individuals. 48298

(5) If the applicant seeks two or more residential facility 48299
licenses, the residential facilities for which a license is sought 48300
after the effective date of this section are located on the same 48301
or adjoining property sites. 48302

(6) The residential facilities for which the applicant seeks 48303
licensure have not more than eight beds each and forty-eight beds 48304
total. 48305

(7) The applicant, one or more of the applicant's corporate 48306
affiliates, or both employ or contract for, on a full-time basis, 48307
at least one licensed physician who is certified by the American 48308
board of pediatrics or would be eligible for certification from 48309
that board if the physician passed an examination necessary to 48310
obtain certification from that board. 48311

(8) The applicant, one or more of the applicant's corporate 48312
affiliates, or both have educational facilities suitable for the 48313
instruction of individuals under eighteen years of age with mental 48314
retardation or a developmental disability who have a medically 48315
complex or technology-dependent condition. 48316

(9) The applicant has a policy for giving individuals with mental retardation or a developmental disability who meet all of the following conditions priority over all others in admissions to one of the residential facilities licensed under section 5123.19 of the Revised Code that the applicant operates on the effective date of this section: 48317
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(a) Are under eighteen years of age; 48323

(b) Have a chronic, medically complex, or technology-dependent condition that requires special supervision or care; 48324
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(c) Are eligible for medicaid; 48327

(d) Reside in a nursing home, as defined in section 3721.01 of the Revised Code, or a hospital, as defined in section 3727.01, prior to being admitted to the residential facility. 48328
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(B) The director shall issue one or more residential facility licenses under section 5123.19 of the Revised Code to an applicant who meets all of the requirements of this section regardless of whether the requirements for approval of a plan for a proposed residential facility established by rules adopted under section 5123.042 of the Revised Code are met. 48331
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Sec. 5123.38. (A) Except as provided in division (B) and (C) of this section, if an individual receiving supported living or home and community-based services, as defined in section 5126.01 of the Revised Code, funded by a county board of mental retardation and developmental disabilities 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 of mental retardation and developmental disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the 48337
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individual's care in the state-operated facility. 48347

(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. 48348
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(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. 48355
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Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally 48362
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retarded person" and "developmentally disabled person" in section 48378
5123.01 of the Revised Code, the legal rights service shall 48379
determine who is a mentally retarded or developmentally disabled 48380
person for purposes of this section and sections 5123.601 to 48381
5123.604 of the Revised Code. 48382

(B) In regard to those persons detained, hospitalized, or 48383
institutionalized under Chapter 5122. of the Revised Code, the 48384
legal rights service shall undertake formal representation only of 48385
those persons who are involuntarily detained, hospitalized, or 48386
institutionalized pursuant to sections 5122.10 to 5122.15 of the 48387
Revised Code, and those voluntarily detained, hospitalized, or 48388
institutionalized who are minors, who have been adjudicated 48389
incompetent, who have been detained, hospitalized, or 48390
institutionalized in a public hospital, or who have requested 48391
representation by the legal rights service. If a person referred 48392
to in division (A) of this section voluntarily requests in writing 48393
that the legal rights service terminate participation in the 48394
person's case, such involvement shall cease. 48395

(C) Any person voluntarily hospitalized or institutionalized 48396
in a public hospital under division (A) of section 5122.02 of the 48397
Revised Code, after being fully informed of the person's rights 48398
under division (A) of this section, may, by written request, waive 48399
assistance by the legal rights service if the waiver is knowingly 48400
and intelligently made, without duress or coercion. 48401

The waiver may be rescinded at any time by the voluntary 48402
patient or resident, or by the voluntary patient's or resident's 48403
legal guardian. 48404

(D)(1) The legal rights service commission is hereby created 48405
for the purposes of appointing an administrator of the legal 48406
rights service, advising the administrator, assisting the 48407
administrator in developing a budget, creating a procedure for 48408
filing and determination of grievances against the legal rights 48409

service, and establishing general policy guidelines, including 48410
guidelines for the commencement of litigation, for the legal 48411
rights service. The commission may adopt rules to carry these 48412
purposes into effect and may receive and act upon appeals of 48413
personnel decisions by the administrator. 48414

(2) The commission shall consist of seven members. One 48415
member, who shall serve as chairperson, shall be appointed by the 48416
chief justice of the supreme court, three members shall be 48417
appointed by the speaker of the house of representatives, and 48418
three members shall be appointed by the president of the senate. 48419
At least two members shall have experience in the field of 48420
developmental disabilities, and at least two members shall have 48421
experience in the field of mental health. No member shall be a 48422
provider or related to a provider of services to mentally 48423
retarded, developmentally disabled, or mentally ill persons. 48424

(3) Terms of office of the members of the commission shall be 48425
for three years, each term ending on the same day of the month of 48426
the year as did the term which it succeeds. Each member shall 48427
serve subsequent to the expiration of the member's term until a 48428
successor is appointed and qualifies, or until sixty days has 48429
elapsed, whichever occurs first. No member shall serve more than 48430
two consecutive terms. 48431

All vacancies in the membership of the commission shall be 48432
filled in the manner prescribed for regular appointments to the 48433
commission and shall be limited to the unexpired terms. 48434

(4) The commission shall meet at least four times each year. 48435
Members shall be reimbursed for their necessary and actual 48436
expenses incurred in the performance of their official duties. 48437

(5) The administrator of the legal rights service shall be 48438
~~appointed for a five year term, subject to removal for mental or~~ 48439
~~physical incapacity to perform the duties of the office,~~ 48440

~~conviction of violation of any law relating to the administrator's~~ 48441
~~powers and duties, or other good cause shown~~ serve at the pleasure 48442
of the commission. 48443

The administrator shall be a person who has had special 48444
training and experience in the type of work with which the legal 48445
rights service is charged. If the administrator is not an 48446
attorney, the administrator shall seek legal counsel when 48447
appropriate. The salary of the administrator shall be established 48448
in accordance with section 124.14 of the Revised Code. 48449

(E) The legal rights service shall be completely independent 48450
of the department of mental health and the department of mental 48451
retardation and developmental disabilities and, notwithstanding 48452
section 109.02 of the Revised Code, shall also be independent of 48453
the office of the attorney general. The administrator of the legal 48454
rights service, staff, and attorneys designated by the 48455
administrator to represent persons detained, hospitalized, or 48456
institutionalized under this chapter or Chapter 5122. of the 48457
Revised Code shall have ready access to the following: 48458

(1) During normal business hours and at other reasonable 48459
times, all records relating to expenditures of state and federal 48460
funds or to the commitment, care, treatment, and habilitation of 48461
all persons represented by the legal rights service, including 48462
those who may be represented pursuant to division (L) of this 48463
section, or persons detained, hospitalized, institutionalized, or 48464
receiving services under this chapter or Chapter 340., 5119., 48465
5122., or 5126. of the Revised Code that are records maintained by 48466
the following entities providing services for those persons: 48467
departments; institutions; hospitals; community residential 48468
facilities; boards of alcohol, drug addiction, and mental health 48469
services; county boards of mental retardation and developmental 48470
disabilities; contract agencies of those boards; and any other 48471
entity providing services to persons who may be represented by the 48472

service pursuant to division (L) of this section; 48473

(2) Any records maintained in computerized data banks of the 48474
departments or boards or, in the case of persons who may be 48475
represented by the service pursuant to division (L) of this 48476
section, any other entity that provides services to those persons; 48477

(3) During their normal working hours, personnel of the 48478
departments, facilities, boards, agencies, institutions, 48479
hospitals, and other service-providing entities; 48480

(4) At any time, all persons detained, hospitalized, or 48481
institutionalized; persons receiving services under this chapter 48482
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 48483
persons who may be represented by the service pursuant to division 48484
(L) of this section. 48485

(F) The administrator of the legal rights service shall do 48486
the following: 48487

(1) Administer and organize the work of the legal rights 48488
service and establish administrative or geographic divisions as 48489
the administrator considers necessary, proper, and expedient; 48490

(2) Adopt and promulgate rules that are not in conflict with 48491
rules adopted by the commission and prescribe duties for the 48492
efficient conduct of the business and general administration of 48493
the legal rights service; 48494

(3) Appoint and discharge employees, and hire experts, 48495
consultants, advisors, or other professionally qualified persons 48496
as the administrator considers necessary to carry out the duties 48497
of the legal rights service; 48498

(4) Apply for and accept grants of funds, and accept 48499
charitable gifts and bequests; 48500

(5) Prepare and submit a budget to the general assembly for 48501
the operation of the legal rights service. At least thirty days 48502

prior to submitting the budget to the general assembly, the 48503
administrator shall provide a copy of the budget to the commission 48504
for review and comment. When submitting the budget to the general 48505
assembly, the administrator shall include a copy of any written 48506
comments returned by the commission to the administrator. 48507

(6) Enter into contracts and make expenditures necessary for 48508
the efficient operation of the legal rights service; 48509

(7) Annually prepare a report of activities and submit copies 48510
of the report to the governor, the chief justice of the supreme 48511
court, the president of the senate, the speaker of the house of 48512
representatives, the director of mental health, and the director 48513
of mental retardation and developmental disabilities, and make the 48514
report available to the public; 48515

(8) Upon request of the commission or of the chairperson of 48516
the commission, report to the commission on specific litigation 48517
issues or activities. 48518

(G)(1) The legal rights service may act directly or contract 48519
with other organizations or individuals for the provision of the 48520
services envisioned under this section. 48521

(2) Whenever possible, the administrator shall attempt to 48522
facilitate the resolution of complaints through administrative 48523
channels. Subject to division (G)(3) of this section, if attempts 48524
at administrative resolution prove unsatisfactory, the 48525
administrator may pursue any legal, administrative, and other 48526
appropriate remedies or approaches that may be necessary to 48527
accomplish the purposes of this section. 48528

(3) The administrator may not pursue a class action lawsuit 48529
under division (G)(2) of this section when attempts at 48530
administrative resolution of a complaint prove unsatisfactory 48531
under that division unless both of the following have first 48532
occurred: 48533

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit; 48534
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(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained. 48537
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(4) ~~Relationships~~ Subject to division (G)(5) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be confidential, as if between attorney and client. 48539
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(5) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential. 48544
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(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. 48553
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(I) The legal rights service may conduct public hearings. 48560

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties. 48561
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(K) In any malpractice action filed against the administrator 48564
of the legal rights service, a member of the staff of the legal 48565
rights service, or an attorney designated by the administrator to 48566
perform legal services under division (E) of this section, the 48567
state shall, when the administrator, member, or attorney has acted 48568
in good faith and in the scope of employment, indemnify the 48569
administrator, member, or attorney for any judgment awarded or 48570
amount negotiated in settlement, and for any court costs or legal 48571
fees incurred in defense of the claim. 48572

This division does not limit or waive, and shall not be 48573
construed to limit or waive, any defense that is available to the 48574
legal rights service, its administrator or employees, persons 48575
under a personal services contract with it, or persons designated 48576
under division (E) of this section, including, but not limited to, 48577
any defense available under section 9.86 of the Revised Code. 48578

(L) In addition to providing services to mentally ill, 48579
mentally retarded, or developmentally disabled persons, when a 48580
grant authorizing the provision of services to other individuals 48581
is accepted pursuant to division (F)(4) of this section, the legal 48582
rights service and its ombudsperson section may provide advocacy 48583
or ombudsperson services to those other individuals and exercise 48584
any other authority granted by this section or sections 5123.601 48585
to 5123.604 of the Revised Code on behalf of those individuals. 48586
Determinations of whether an individual is eligible for services 48587
under this division shall be made by the legal rights service. 48588

Sec. 5123.801. If neither a discharged resident, nor a 48589
resident granted trial visit, nor the persons requesting the 48590
resident's trial visit or discharge are financially able to bear 48591
the expense of the resident's trial visit or discharge, the 48592
managing officer of an institution under the control of the 48593
department of mental retardation and developmental disabilities 48594

may then provide actual traveling and escort expenses to the 48595
township of which the resident resided at the time of 48596
institutionalization. The amount payable shall be charged to the 48597
current expense fund of the institution. 48598

The expense of the return of a resident on trial visit from 48599
an institution, if it cannot be paid by the responsible relatives, 48600
shall be borne by the county of institutionalization. 48601

~~The managing officer of the institution shall take all proper 48602
measures for the apprehension of an escaped resident. The expense 48603
of the return of an escaped resident shall be borne by the 48604
institution where the resident is institutionalized. 48605~~

The managing officer of the institution shall provide 48606
sufficient and proper clothing for traveling if neither the 48607
resident nor the persons requesting the resident's trial visit or 48608
discharge are financially able to provide that clothing. 48609

Sec. 5123.851. When a resident institutionalized pursuant to 48610
this chapter is discharged from the institution, the managing 48611
officer of the institution may provide the resident with all 48612
personal items that were purchased in implementing the resident's 48613
habilitation plan established pursuant to section 5123.85 of the 48614
Revised Code. The personal items may be provided to the resident, 48615
regardless of the source of the funds that were used to purchase 48616
the items. 48617

Sec. 5126.01. As used in this chapter: 48618

(A) As used in this division, "adult" means an individual who 48619
is eighteen years of age or over and not enrolled in a program or 48620
service under Chapter 3323. of the Revised Code and an individual 48621
sixteen or seventeen years of age who is eligible for adult 48622
services under rules adopted by the director of mental retardation 48623
and developmental disabilities pursuant to Chapter 119. of the 48624

Revised Code.	48625
(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.	48626 48627 48628 48629 48630 48631 48632
(2) "Adult services" includes all of the following:	48633
(a) Adult day habilitation services;	48634
(b) Adult day care;	48635
(c) Prevocational services;	48636
(d) Sheltered employment;	48637
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	48638 48639 48640 48641 48642 48643 48644
(f) Community employment services and supported employment services.	48645 48646
(B)(1) "Adult day habilitation services" means adult services that do the following:	48647 48648
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community	48649 48650 48651 48652 48653 48654

events, and activities where individuals without disabilities are 48655
involved; 48656

(b) Provide supports or a combination of training and 48657
supports that afford an individual a wide variety of opportunities 48658
to facilitate and build relationships and social supports in the 48659
community. 48660

(2) "Adult day habilitation services" includes all of the 48661
following: 48662

(a) Personal care services needed to ensure an individual's 48663
ability to experience and participate in vocational services, 48664
educational services, community activities, and any other adult 48665
day habilitation services; 48666

(b) Skilled services provided while receiving adult day 48667
habilitation services, including such skilled services as behavior 48668
management intervention, occupational therapy, speech and language 48669
therapy, physical therapy, and nursing services; 48670

(c) Training and education in self-determination designed to 48671
help the individual do one or more of the following: develop 48672
self-advocacy skills, exercise the individual's civil rights, 48673
acquire skills that enable the individual to exercise control and 48674
responsibility over the services received, and acquire skills that 48675
enable the individual to become more independent, integrated, or 48676
productive in the community; 48677

(d) Recreational and leisure activities identified in the 48678
individual's service plan as therapeutic in nature or assistive in 48679
developing or maintaining social supports; 48680

(e) Counseling and assistance provided to obtain housing, 48681
including such counseling as identifying options for either rental 48682
or purchase, identifying financial resources, assessing needs for 48683
environmental modifications, locating housing, and planning for 48684
ongoing management and maintenance of the housing selected; 48685

(f) Transportation necessary to access adult day habilitation services; 48686
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(g) Habilitation management, as described in section 5126.14 of the Revised Code. 48688
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(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. 48690
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(C) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following: 48693
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(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment; 48698
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(2) Supervised work experience through an employer paid to provide the supervised work experience; 48701
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(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities; 48703
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(4) Ongoing supervision by an employer paid to provide the supervision. 48705
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(D) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 48707
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"Developmental disability" means a severe, chronic disability that is characterized by all of the following: 48711
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(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as 48713
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defined in division (A) of section 5122.01 of the Revised Code;	48716
(2) It is manifested before age twenty-two;	48717
(3) It is likely to continue indefinitely;	48718
(4) It results in one of the following:	48719
(a) In the case of a person under age three, at least one developmental delay or an established risk;	48720 48721
(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;	48722 48723
(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.	48724 48725 48726 48727 48728 48729 48730
(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.	48731 48732 48733 48734
(E) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.	48735 48736 48737 48738
(F)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.	48739 48740 48741 48742 48743 48744
(2) "Environmental modifications" includes such adaptations	48745

as installation of ramps and grab-bars, widening of doorways, 48746
modification of bathroom facilities, and installation of 48747
specialized electric and plumbing systems necessary to accommodate 48748
the individual's medical equipment and supplies. 48749

(3) "Environmental modifications" does not include physical 48750
adaptations or improvements to the home that are of general 48751
utility or not of direct medical or remedial benefit to the 48752
individual, including such adaptations or improvements as 48753
carpeting, roof repair, and central air conditioning. 48754

(G) "Family support services" means the services provided 48755
under a family support services program operated under section 48756
5126.11 of the Revised Code. 48757

(H) "Habilitation" means the process by which the staff of 48758
the facility or agency assists an individual with mental 48759
retardation or other developmental disability in acquiring and 48760
maintaining those life skills that enable the individual to cope 48761
more effectively with the demands of the individual's own person 48762
and environment, and in raising the level of the individual's 48763
personal, physical, mental, social, and vocational efficiency. 48764
Habilitation includes, but is not limited to, programs of formal, 48765
structured education and training. 48766

(I) "Habilitation center services" means services provided by 48767
a habilitation center certified by the department of mental 48768
retardation and developmental disabilities under section 5123.041 48769
of the Revised Code and covered by the medicaid program pursuant 48770
to rules adopted under section 5111.041 of the Revised Code. 48771

(J) "Home and community-based services" means medicaid-funded 48772
home and community-based services provided under a the medicaid 48773
~~component~~ components the department of mental retardation and 48774
developmental disabilities administers pursuant to section 48775
5111.871 of the Revised Code. 48776

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 48777
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(L) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires. 48779
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(M) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group. 48783
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(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code. 48790
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(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment. 48797
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(P) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code. 48802
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(Q)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to 48805
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perform activities of daily living or to perceive, control, or
communicate within the environment. 48808
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(2) "Specialized medical, adaptive, and assistive equipment,
supplies, and supports" includes the following: 48810
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(a) Eating utensils, adaptive feeding dishes, plate guards,
mylatex straps, hand splints, reaches, feeder seats, adjustable
pointer sticks, interpreter services, telecommunication devices
for the deaf, computerized communications boards, other
communication devices, support animals, veterinary care for
support animals, adaptive beds, supine boards, prone boards,
wedges, sand bags, sidelayers, bolsters, adaptive electrical
switches, hand-held shower heads, air conditioners, humidifiers,
emergency response systems, folding shopping carts, vehicle lifts,
vehicle hand controls, other adaptations of vehicles for
accessibility, and repair of the equipment received. 48812
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(b) Nondisposable items not covered by medicaid that are
intended to assist an individual in activities of daily living or
instrumental activities of daily living. 48823
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(R) "Supportive home services" means a range of services to
families of individuals with mental retardation or other
developmental disabilities to develop and maintain increased
acceptance and understanding of such persons, increased ability of
family members to teach the person, better coordination between
school and home, skills in performing specific therapeutic and
management techniques, and ability to cope with specific
situations. 48826
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(S)(1) "Supported living" means services provided for as long
as twenty-four hours a day to an individual with mental
retardation or other developmental disability through any public
or private resources, including moneys from the individual, that
enhance the individual's reputation in community life and advance 48834
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the individual's quality of life by doing the following:	48839
(a) Providing the support necessary to enable an individual	48840
to live in a residence of the individual's choice, with any number	48841
of individuals who are not disabled, or with not more than three	48842
individuals with mental retardation and developmental disabilities	48843
unless the individuals are related by blood or marriage;	48844
(b) Encouraging the individual's participation in the	48845
community;	48846
(c) Promoting the individual's rights and autonomy;	48847
(d) Assisting the individual in acquiring, retaining, and	48848
improving the skills and competence necessary to live successfully	48849
in the individual's residence.	48850
(2) "Supported living" includes the provision of all of the	48851
following:	48852
(a) Housing, food, clothing, habilitation, staff support,	48853
professional services, and any related support services necessary	48854
to ensure the health, safety, and welfare of the individual	48855
receiving the services;	48856
(b) A combination of life-long or extended-duration	48857
supervision, training, and other services essential to daily	48858
living, including assessment and evaluation and assistance with	48859
the cost of training materials, transportation, fees, and	48860
supplies;	48861
(c) Personal care services and homemaker services;	48862
(d) Household maintenance that does not include modifications	48863
to the physical structure of the residence;	48864
(e) Respite care services;	48865
(f) Program management, as described in section 5126.14 of	48866
the Revised Code.	48867

Sec. 5126.042. (A) As used in this section+ 48868

~~(1)~~ "Emergency", "emergency" means any situation that creates 48869
for an individual with mental retardation or developmental 48870
disabilities a risk of substantial self-harm or substantial harm 48871
to others if action is not taken within thirty days. An 48872
"emergency" may include one or more of the following situations: 48873

~~(a)~~(1) Loss of present residence for any reason, including 48874
legal action; 48875

~~(b)~~(2) Loss of present caretaker for any reason, including 48876
serious illness of the caretaker, change in the caretaker's 48877
status, or inability of the caretaker to perform effectively for 48878
the individual; 48879

~~(c)~~(3) Abuse, neglect, or exploitation of the individual; 48880

~~(d)~~(4) Health and safety conditions that pose a serious risk 48881
to the individual or others of immediate harm or death; 48882

~~(e)~~(5) Change in the emotional or physical condition of the 48883
individual that necessitates substantial accommodation that cannot 48884
be reasonably provided by the individual's existing caretaker. 48885

~~(2)~~ "Medicaid" has the same meaning as in section 5111.01 of 48886
the Revised Code. 48887

(B) If a county board of mental retardation and developmental 48888
disabilities determines that available resources are not 48889
sufficient to meet the needs of all individuals who request 48890
programs and services and may be offered the programs and 48891
services, it shall establish waiting lists for services. The board 48892
may establish priorities for making placements on its waiting 48893
lists according to an individual's emergency status and shall 48894
establish priorities in accordance with ~~division~~ divisions (D) and 48895
(E) of this section. 48896

The individuals who may be placed on a waiting list include 48897
individuals with a need for services on an emergency basis and 48898
individuals who have requested services for which resources are 48899
not available. 48900

Except for an individual who is to receive priority for 48901
services pursuant to division (D)(3) of this section, an 48902
individual who currently receives a service but would like to 48903
change to another service shall not be placed on a waiting list 48904
but shall be placed on a service substitution list. The board 48905
shall work with the individual, service providers, and all 48906
appropriate entities to facilitate the change in service as 48907
expeditiously as possible. The board may establish priorities for 48908
making placements on its service substitution lists according to 48909
an individual's emergency status. 48910

In addition to maintaining waiting lists and service 48911
substitution lists, a board shall maintain a long-term service 48912
planning registry for individuals who wish to record their 48913
intention to request in the future a service they are not 48914
currently receiving. The purpose of the registry is to enable the 48915
board to document requests and to plan appropriately. The board 48916
may not place an individual on the registry who meets the 48917
conditions for receipt of services on an emergency basis. 48918

(C) A county board shall establish a separate waiting list 48919
for each of the following categories of services, and may 48920
establish separate waiting lists within the waiting lists: 48921

(1) Early childhood services; 48922

(2) Educational programs for preschool and school age 48923
children; 48924

(3) Adult services; 48925

(4) Service and support administration; 48926

(5) Residential services and supported living;	48927
(6) Transportation services;	48928
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	48929 48930 48931
(8) Family support services provided under section 5126.11 of the Revised Code.	48932 48933
(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:	48934 48935 48936 48937 48938
(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:	48939 48940 48941 48942
(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:	48943 48944 48945 48946 48947 48948
(i) Is twenty-two years of age or older;	48949
(ii) Receives supported living or family support services.	48950
(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:	48951 48952 48953 48954 48955
(i) Resides in the individual's own home or the home of the	48956

individual's family and will continue to reside in that home after 48957
enrollment in home and community-based services; 48958

(ii) Receives adult services from the county board. 48959

(2) As federal medicaid funds become available pursuant to 48960
division (D)(1) of this section, give an individual who is 48961
eligible for home and community-based services and meets any of 48962
the following requirements priority for such services over any 48963
other individual on a waiting list established under division (C) 48964
of this section: 48965

(a) Does not receive residential services or supported 48966
living, either needs services in the individual's current living 48967
arrangement or will need services in a new living arrangement, and 48968
has a primary caregiver who is sixty years of age or older; 48969

(b) Is less than twenty-two years of age and has at least one 48970
of the following service needs that are unusual in scope or 48971
intensity: 48972

(i) Severe behavior problems for which a behavior support 48973
plan is needed; 48974

(ii) An emotional disorder for which anti-psychotic 48975
medication is needed; 48976

(iii) A medical condition that leaves the individual 48977
dependent on life-support medical technology; 48978

(iv) A condition affecting multiple body systems for which a 48979
combination of specialized medical, psychological, educational, or 48980
habilitation services are needed; 48981

(v) A condition the county board determines to be comparable 48982
in severity to any condition described in division (D)(2)(b)(i) to 48983
(iv) of this section and places the individual at significant risk 48984
of institutionalization. 48985

(c) Is twenty-two years of age or older, does not receive 48986

residential services or supported living, and is determined by the 48987
county board to have intensive needs for home and community-based 48988
services on an in-home or out-of-home basis. 48989

(3) In fiscal years 2002 and 2003, give an individual who is 48990
eligible for home and community-based services, resides in an 48991
intermediate care facility for the mentally retarded or nursing 48992
facility, chooses to move to another setting with the help of home 48993
and community-based services, and has been determined by the 48994
department of mental retardation and developmental disabilities to 48995
be capable of residing in the other setting, priority over any 48996
other individual on a waiting list established under division (C) 48997
of this section for home and community-based services who does not 48998
meet these criteria. The department of mental retardation and 48999
developmental disabilities shall identify the individuals to 49000
receive priority under division (D)(3) of this section, assess the 49001
needs of the individuals, and notify the county boards that are to 49002
provide the individuals priority under division (D)(3) of this 49003
section of the individuals identified by the department and the 49004
individuals' assessed needs. 49005

(E) Except as provided in division (G) of this section and 49006
for a number of years and beginning on a date specified in rules 49007
adopted under division (K) of this section, a county board shall 49008
give an individual who is eligible for home and community-based 49009
services, resides in a nursing facility, chooses to move to 49010
another setting with the help of home and community-based 49011
services, and has been determined by the department of mental 49012
retardation and developmental disabilities to be capable of 49013
residing in the other setting, priority over any other individual 49014
on a waiting list established under division (C) of this section 49015
for home and community-based services who does not meet these 49016
criteria. 49017

(F) If two or more individuals on a waiting list established 49018

under division (C) of this section for home and community-based 49019
services have priority for the services pursuant to division 49020
(D)(1) or (2) or (E) of this section, a county board may use, 49021
until December 31, 2003, criteria specified in rules adopted under 49022
division ~~(J)~~(K)(2) of this section in determining the order in 49023
which the individuals with priority will be offered the services. 49024
Otherwise, the county board shall offer the home and 49025
community-based services to such individuals in the order they are 49026
placed on the waiting list. 49027

~~(F)~~(G)(1) No individual may receive priority for services 49028
pursuant to division (D) or (E) of this section over an individual 49029
placed on a waiting list established under division (C) of this 49030
section on an emergency status. 49031

(2) No more than four hundred individuals in the state may 49032
receive priority for services during the 2002 and 2003 biennium 49033
pursuant to division (D)(2)(b) of this section. 49034

(3) No more than a total of seventy-five individuals in the 49035
state may receive priority for services during state fiscal years 49036
2002 and 2003 pursuant to division (D)(3) of this section. 49037

~~(G)~~(4) No more than forty individuals in the state may 49038
receive priority for services pursuant to division (E) of this 49039
section for each year that priority category is in effect as 49040
specified in rules adopted under division (K) of this section. 49041

(H) Prior to establishing any waiting list under this 49042
section, a county board shall develop and implement a policy for 49043
waiting lists that complies with this section and rules adopted 49044
under division ~~(J)~~(K) of this section. 49045

Prior to placing an individual on a waiting list, the county 49046
board shall assess the service needs of the individual in 49047
accordance with all applicable state and federal laws. The county 49048
board shall place the individual on the appropriate waiting list 49049

and may place the individual on more than one waiting list. The 49050
county board shall notify the individual of the individual's 49051
placement and position on each waiting list on which the 49052
individual is placed. 49053

At least annually, the county board shall reassess the 49054
service needs of each individual on a waiting list. If it 49055
determines that an individual no longer needs a program or 49056
service, the county board shall remove the individual from the 49057
waiting list. If it determines that an individual needs a program 49058
or service other than the one for which the individual is on the 49059
waiting list, the county board shall provide the program or 49060
service to the individual or place the individual on a waiting 49061
list for the program or service in accordance with the board's 49062
policy for waiting lists. 49063

When a program or service for which there is a waiting list 49064
becomes available, the county board shall reassess the service 49065
needs of the individual next scheduled on the waiting list to 49066
receive that program or service. If the reassessment demonstrates 49067
that the individual continues to need the program or service, the 49068
board shall offer the program or service to the individual. If it 49069
determines that an individual no longer needs a program or 49070
service, the county board shall remove the individual from the 49071
waiting list. If it determines that an individual needs a program 49072
or service other than the one for which the individual is on the 49073
waiting list, the county board shall provide the program or 49074
service to the individual or place the individual on a waiting 49075
list for the program or service in accordance with the board's 49076
policy for waiting lists. The county board shall notify the 49077
individual of the individual's placement and position on the 49078
waiting list on which the individual is placed. 49079

~~(H)~~(I) A child subject to a determination made pursuant to 49080
section 121.38 of the Revised Code who requires the home and 49081

community-based services provided through ~~the~~ a medicaid component 49082
that the department of mental retardation and developmental 49083
disabilities administers under section 5111.871 of the Revised 49084
Code shall receive services through that medicaid component. For 49085
all other services, a child subject to a determination made 49086
pursuant to section 121.38 of the Revised Code shall be treated as 49087
an emergency by the county boards and shall not be subject to a 49088
waiting list. 49089

~~(I)~~(J) Not later than the fifteenth day of March of each 49090
even-numbered year, each county board shall prepare and submit to 49091
the director of mental retardation and developmental disabilities 49092
its recommendations for the funding of services for individuals 49093
with mental retardation and developmental disabilities and its 49094
proposals for reducing the waiting lists for services. 49095

~~(J)~~(K)(1) The department of mental retardation and 49096
developmental disabilities shall adopt rules in accordance with 49097
Chapter 119. of the Revised Code governing waiting lists 49098
established under this section. The rules shall include procedures 49099
to be followed to ensure that the due process rights of 49100
individuals placed on waiting lists are not violated. 49101

(2) As part of the rules adopted under this division, the 49102
department shall adopt, ~~not later than December 31, 2001,~~ rules 49103
establishing criteria a county board may use under division ~~(E)~~(F) 49104
of this section in determining the order in which individuals with 49105
priority for home and community-based services will be offered the 49106
services. The rules shall also specify conditions under which a 49107
county board, when there is no individual with priority for home 49108
and community-based services pursuant to division (D)(1) or (2) or 49109
(E) of this section available and appropriate for the services, 49110
may offer the services to an individual on a waiting list for the 49111
services but not given such priority for the services. The rules 49112
adopted under division ~~(J)~~(K)(2) of this section shall cease to 49113

have effect December 31, 2003. 49114

~~(K)~~(3) As part of the rules adopted under this division, the 49115
department shall adopt rules specifying both of the following for 49116
the priority category established under division (E) of this 49117
section: 49118

(a) The number of years, which shall not exceed five, that 49119
the priority category will be in effect; 49120

(b) The date that the priority category is to go into effect. 49121

(L) The following shall take precedence over the applicable 49122
provisions of this section: 49123

(1) Medicaid rules and regulations; 49124

(2) Any specific requirements that may be contained within a 49125
medicaid state plan amendment or waiver program that a county 49126
board has authority to administer or with respect to which it has 49127
authority to provide services, programs, or supports. 49128

Sec. 5126.12. (A) As used in this section: 49129

(1) "Approved school age class" means a class operated by a 49130
county board of mental retardation and developmental disabilities 49131
and funded by the department of education under section 3317.20 of 49132
the Revised Code. 49133

(2) "Approved preschool unit" means a class or unit operated 49134
by a county board of mental retardation and developmental 49135
disabilities and approved ~~by the state board of education~~ under 49136
division (B) of section 3317.05 of the Revised Code. 49137

(3) "Active treatment" means a continuous treatment program, 49138
which includes aggressive, consistent implementation of a program 49139
of specialized and generic training, treatment, health services, 49140
and related services, that is directed toward the acquisition of 49141
behaviors necessary for an individual with mental retardation or 49142

other developmental disability to function with as much 49143
self-determination and independence as possible and toward the 49144
prevention of deceleration, regression, or loss of current optimal 49145
functional status. 49146

(4) "Eligible for active treatment" means that an individual 49147
with mental retardation or other developmental disability resides 49148
in an intermediate care facility for the mentally retarded 49149
certified under Title XIX of the "Social Security Act," ~~49~~ 79 49150
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, as amended; resides 49151
in a state institution operated by the department of mental 49152
retardation and developmental disabilities; or is enrolled in a 49153
home and community-based services waiver program ~~administered by~~ 49154
~~the department of mental retardation and developmental~~ 49155
~~disabilities as part of the medical assistance program established~~ 49156
~~under section 5111.01 of the Revised Code.~~ 49157

(5) "Community alternative funding system" means the program 49158
under which habilitation center services are reimbursed under the 49159
medicaid program pursuant to section 5111.041 of the Revised Code 49160
and rules adopted under that section. 49161

(6) "Traditional adult services" means vocational and 49162
nonvocational activities conducted within a sheltered workshop or 49163
adult activity center or supportive home services. 49164

(B) Each county board of mental retardation and developmental 49165
disabilities shall certify to the director of mental retardation 49166
and developmental disabilities all of the following: 49167

(1) On or before the fifteenth day of October, the average 49168
daily membership for the first full week of programs and services 49169
during October receiving: 49170

(a) Early childhood services provided pursuant to section 49171
5126.05 of the Revised Code for children who are less than three 49172
years of age on the thirtieth day of September of the academic 49173

year;	49174
(b) Special education for handicapped children in approved school age classes;	49175 49176
(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:	49177 49178 49179 49180
(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;	49181 49182 49183
(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;	49184 49185 49186
(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;	49187 49188 49189
(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.	49190 49191 49192 49193
(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of mental retardation and developmental disabilities.	49194 49195 49196 49197
The membership in each such program and service in the county shall be reported on forms prescribed by the department of mental retardation and developmental disabilities.	49198 49199 49200
The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership	49201 49202 49203

therefrom, except that certification of average daily membership 49204
in approved school age classes shall be in accordance with rules 49205
adopted by the state board of education. The average daily 49206
membership figure shall be determined by dividing the amount 49207
representing the sum of the number of enrollees in each program or 49208
service in the week for which the certification is made by the 49209
number of days the program or service was offered in that week. No 49210
enrollee may be counted in average daily membership for more than 49211
one program or service. 49212

(2) By the fifteenth day of December, the number of children 49213
enrolled in approved preschool units on the first day of December; 49214

(3) On or before the thirtieth day of March, an itemized 49215
report of all income and operating expenditures for the 49216
immediately preceding calendar year, in the format specified by 49217
the department of mental retardation and developmental 49218
disabilities; 49219

(4) By the fifteenth day of February, a report of the total 49220
annual cost per enrollee for operation of programs and services in 49221
the preceding calendar year. The report shall include a grand 49222
total of all programs operated, the cost of the individual 49223
programs, and the sources of funds applied to each program. 49224

(5) That each required certification and report is in 49225
accordance with rules established by the department of mental 49226
retardation and developmental disabilities and the state board of 49227
education for the operation and subsidization of the programs and 49228
services. 49229

(C) To compute payments under this section to the board for 49230
the fiscal year, the department of mental retardation and 49231
developmental disabilities shall use the certification of average 49232
daily membership required by division (B)(1) of this section 49233
exclusive of the average daily membership in any approved school 49234

age class and the number in any approved preschool unit. 49235

(D) The department shall pay each county board for each 49236
fiscal year an amount equal to nine hundred fifty dollars times 49237
the certified number of persons who on the first day of December 49238
of the academic year are under three years of age and are not in 49239
an approved preschool unit. For persons who are at least age 49240
sixteen and are not in an approved school age class, the 49241
department shall pay each county board for each fiscal year the 49242
following amounts: 49243

(1) One thousand dollars times the certified average daily 49244
membership of persons enrolled in traditional adult services who 49245
are eligible for but not enrolled in active treatment under the 49246
community alternative funding system; 49247

(2) One thousand two hundred dollars times the certified 49248
average daily membership of persons enrolled in traditional adult 49249
services who are eligible for and enrolled in active treatment 49250
under the community alternative funding system; 49251

(3) No less than one thousand five hundred dollars times the 49252
certified average daily membership of persons enrolled in 49253
traditional adult services but who are not eligible for active 49254
treatment under the community alternative funding system; 49255

(4) No less than one thousand five hundred dollars times the 49256
certified average daily membership of persons participating in 49257
community employment services. 49258

(E) The department shall distribute this subsidy to county 49259
boards in semiannual installments of equal amounts. The 49260
installments shall be made not later than the thirty-first day of 49261
August and the thirty-first day of January. 49262

(F) The director of mental retardation and developmental 49263
disabilities shall make efforts to obtain increases in the 49264
subsidies for early childhood services and adult services so that 49265

the amount of the subsidies is equal to at least fifty per cent of 49266
the statewide average cost of those services minus any applicable 49267
federal reimbursements for those services. The director shall 49268
advise the director of budget and management of the need for any 49269
such increases when submitting the biennial appropriations request 49270
for the department. 49271

(G) In determining the reimbursement of a county board for 49272
the provision of service and support administration, family 49273
support services, and other services required or approved by the 49274
director for which children three through twenty-one years of age 49275
are eligible, the department shall include the average daily 49276
membership in approved school age or preschool units. The 49277
department, in accordance with this section and upon receipt and 49278
approval of the certification required by this section and any 49279
other information it requires to enable it to determine a board's 49280
payments, shall pay the agency providing the specialized training 49281
the amounts payable under this section. 49282

Sec. 5139.36. (A) In accordance with this section and the 49283
rules adopted under it and from funds appropriated to the 49284
department of youth services for the purposes of this section, the 49285
department shall make grants that provide financial resources to 49286
operate community corrections facilities for felony delinquents. 49287

(B)(1) Each community corrections facility that intends to 49288
seek a grant under this section shall file an application with the 49289
department of youth services at the time and in accordance with 49290
the procedures that the department shall establish by rules 49291
adopted in accordance with Chapter 119. of the Revised Code. In 49292
addition to other items required to be included in the 49293
application, a plan that satisfies both of the following shall be 49294
included: 49295

(a) It reduces the number of felony delinquents committed to 49296

the department from the county or counties associated with the 49297
community corrections facility. 49298

(b) It ensures equal access for minority felony delinquents 49299
to the programs and services for which a potential grant would be 49300
used. 49301

(2) The department of youth services shall review each 49302
application submitted pursuant to division (B)(1) of this section 49303
to determine whether the plan described in that division, the 49304
community corrections facility, and the application comply with 49305
this section and the rules adopted under it. 49306

(C) To be eligible for a grant under this section and for 49307
continued receipt of moneys comprising a grant under this section, 49308
a community corrections facility shall satisfy at least all of the 49309
following requirements: 49310

(1) Be constructed, reconstructed, improved, or financed by 49311
the Ohio building authority pursuant to section 307.021 of the 49312
Revised Code and Chapter 152. of the Revised Code for the use of 49313
the department of youth services and be designated as a community 49314
corrections facility; 49315

(2) Have written standardized criteria governing the types of 49316
felony delinquents that are eligible for the programs and services 49317
provided by the facility; 49318

(3) Have a written standardized intake screening process and 49319
an intake committee that at least performs both of the following 49320
tasks: 49321

(a) Screens all eligible felony delinquents who are being 49322
considered for admission to the facility in lieu of commitment to 49323
the department; 49324

(b) Notifies, within ten days after the date of the referral 49325
of a felony delinquent to the facility, the committing court 49326

whether the felony delinquent will be admitted to the facility. 49327

(4) Comply with all applicable fiscal and program rules that 49328
the department adopts in accordance with Chapter 119. of the 49329
Revised Code and demonstrate that felony delinquents served by the 49330
facility have been or will be diverted from a commitment to the 49331
department. 49332

(D) The department of youth services shall determine the 49333
method of distribution of the funds appropriated for grants under 49334
this section to community corrections facilities. 49335

~~(E) With the consent of a committing court and of a community 49336
corrections facility that has received a grant under this section, 49337
the department of youth services may place in that facility a 49338
felony delinquent who has been committed to the department. During 49339
the period in which the felony delinquent is in that facility, the 49340
felony delinquent~~ (1) The department of youth services shall adopt 49341
rules in accordance with Chapter 119. of the Revised Code to 49342
establish the minimum occupancy threshold of community corrections 49343
facilities. 49344

(2) The department may make referrals for the placement of 49345
children in its custody to a community corrections facility if the 49346
community corrections facility is not meeting the minimum 49347
occupancy threshold established by the department. At least 49348
forty-five days prior to the referral of a child, the department 49349
shall notify the committing court of its intent to place the child 49350
in a community corrections facility. The court shall have thirty 49351
days after the receipt of the notice to approve or disapprove the 49352
placement. If the court does not respond to the notice of the 49353
placement within that thirty-day period, the department shall 49354
proceed with the placement and debit the county in accordance with 49355
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 49356
a community corrections facility pursuant to this division shall 49357
remain in the legal custody of the department of youth services 49358

during the period in which the child is in the community 49359
corrections facility. 49360

(3) Counties that are not associated with a community 49361
corrections facility may refer children to a community corrections 49362
facility with the consent of the facility. The department of youth 49363
services shall debit the county that makes the referral in 49364
accordance with sections 5139.41 to 5139.45 of the Revised Code. 49365

(F) If the board or other governing body of a community 49366
corrections facility establishes an advisory board, the board or 49367
other governing authority of the community corrections facility 49368
shall reimburse the members of the advisory board for their actual 49369
and necessary expenses incurred in the performance of their 49370
official duties on the advisory board. The members of advisory 49371
boards shall serve without compensation. 49372

Sec. 5139.41. On and after January 1, 1995, the appropriation 49373
made to the department of youth services for care and custody of 49374
felony delinquents shall be expended in accordance with a formula 49375
that the department shall develop for each year of a biennium. The 49376
formula shall be consistent with sections 5139.41 to 5139.45 of 49377
the Revised Code and shall be developed in accordance with the 49378
following guidelines: 49379

(A) The department shall set aside at least three per cent 49380
but not more than five per cent of the appropriation for purposes 49381
of funding the contingency program described in section 5139.45 of 49382
the Revised Code and of use in accordance with that section. 49383

(B)(1) After setting aside the amount described in division 49384
(A) of this section, the department shall set aside twenty-five 49385
per cent of the remainder of the appropriation and use that amount 49386
for the purpose described in division (B)(2) of this section and 49387
to pay certain of the operational costs associated with, and to 49388
provide cash flow for, the following: 49389

(a) Institutions;	49390
(b) The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under section 5139.08 of the Revised Code;	49391 49392 49393
(c) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions.	49394 49395 49396 49397 49398
(2) The department may use a portion of the twenty-five per cent of the remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency program described in section 5139.45 of the Revised Code.	49399 49400 49401 49402 49403 49404 49405
(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the appropriation that is equal to twenty-five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible under sections 5139.41 to 5139.45 of the Revised Code.	49406 49407 49408 49409 49410 49411 49412 49413 49414 49415 49416 49417 49418 49419 49420

(D) After setting aside the amounts described in divisions 49421
(A) to (C) of this section, the department shall set aside the 49422
amount of the appropriation that is necessary to pay seventy-five 49423
per cent of the per diem cost of public safety beds and shall use 49424
that amount for the purpose of paying that per diem cost. 49425

(E) After setting aside the amounts described in divisions 49426
(A) to (D) of this section, the department shall use the remainder 49427
of the appropriation in connection with the felony delinquent care 49428
and custody program described in section 5139.43 of the Revised 49429
Code, except that, for fiscal year 2002 and fiscal year 2003 and 49430
only for those two fiscal years, the total number of beds 49431
available to all counties via public safety beds and county 49432
allocations shall not be less than the total beds used by all the 49433
counties during fiscal year 2000 funded by care and custody 49434
chargebacks (Line Item 401) and as public safety beds. 49435

~~(F) If the department's appropriation for a fiscal year is 49436
subsequently revised by law or its expenditures ordered to be 49437
reduced by executive order under section 126.05 of the Revised 49438
Code, the department may adjust the amounts described in divisions 49439
(A) to (E) of this section in a manner consistent with the 49440
revision or reduction. 49441~~

Sec. 5139.87. (A) The department of youth services shall 49442
serve as the state agent for the administration of all federal 49443
juvenile justice grants awarded to the state. 49444

(B) There are hereby created in the state treasury the 49445
federal juvenile justice programs funds. A separate fund shall be 49446
established each federal fiscal year. All federal grants and other 49447
moneys received for federal juvenile programs shall be deposited 49448
into the funds. All receipts deposited into the funds shall be 49449
used for federal juvenile programs. All investment earnings on the 49450
cash balance in a federal juvenile program fund shall be credited 49451

to that fund for the appropriate federal fiscal year. 49452

(C) All rules, orders, and determinations of the office of 49453
criminal justice services regarding the administration of federal 49454
juvenile justice grants that are in effect on the effective date 49455
of this amendment shall continue in effect as rules, orders, and 49456
determinations of the department of youth services. 49457

Sec. 5153.163. (A) As used in this section, "adoptive parent" 49458
means, as the context requires, a prospective adoptive parent or 49459
an adoptive parent. 49460

(B)(1) ~~If~~ Before a child's adoption is finalized, a public 49461
children services agency ~~considers a child with special needs~~ 49462
~~residing in the county served by the agency to be in need of~~ 49463
~~public care or protective services and all of the following apply,~~ 49464
~~the agency~~ shall enter into an agreement with the child's adoptive 49465
parent ~~before the child is adopted~~ under which the agency shall 49466
make state adoption maintenance subsidy payments as needed on 49467
behalf of the child when all of the following apply: 49468

(a) The child is a child with special needs. 49469

(b) The child was placed in the adoptive home by a public 49470
children services agency or a private child placing agency and may 49471
legally be adopted. 49472

(c) The adoptive parent has the capability of providing the 49473
permanent family relationships needed by the child ~~in all areas~~ 49474
~~except financial need as determined by the agency;.~~ 49475

~~(b)(d)~~ (d) The needs of the child are beyond the economic 49476
resources of the adoptive parent ~~as determined by the agency;.~~ 49477

~~(c)~~ (e) Acceptance of 49478
the child as a member of the adoptive parent's family would not be 49479
in the child's best interest without payments on the child's 49480
behalf under this section. 49481

~~(2) Payments to an adoptive parent under division (B) of this section shall include medical, surgical, psychiatric, psychological, and counseling expenses, and may include maintenance costs if necessary and other costs incidental to the care of the child. No payment of maintenance costs shall be made under division (B) of this section on behalf of a child if either of the following apply:~~

~~(a)(f) The gross income of the adoptive parent's family exceeds does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended.~~

~~(b)(g) The child is not eligible for adoption assistance payments for maintenance costs under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended.~~

(2) State adoption maintenance subsidy payment agreements must be made by either the public children services agency that has permanent custody of the child or the public children services agency of the county in which the private child placing agency that has permanent custody of the child is located.

(3) State adoption maintenance subsidy payments shall be made in accordance with the agreement between the public children services agency and the adoptive parent and are subject to an annual redetermination of need.

(4) Payments under this division (B) of this section may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not

issued within that time because of a delay in court proceedings. 49513
Payments that begin before issuance of the final adoption decree 49514
may continue after its issuance. 49515

(C)(1) If, after the child's adoption is finalized, a public 49516
children services agency considers a child residing in the county 49517
served by the agency to be in need of public care or protective 49518
services and both of the following apply, the agency may, ~~and~~ to 49519
the extent state funds are appropriated for this purpose ~~shall,~~ 49520
enter into an agreement with the child's adoptive parent ~~after the~~ 49521
~~child is adopted~~ under which the agency shall make post adoption 49522
special services subsidy payments on behalf of the child as 49523
needed: 49524

~~(1)~~(a) The child has a physical or developmental handicap or 49525
mental or emotional condition that either: 49526

~~(a)~~(i) Existed before the adoption petition was filed; 49527

~~(b)~~(ii) Developed after the adoption petition was filed and 49528
can be directly attributed to factors in the child's preadoption 49529
background, medical history, or biological family's background or 49530
medical history. 49531

~~(2)~~(b) The agency determines the expenses necessitated by the 49532
child's handicap or condition are beyond the adoptive parent's 49533
economic resources. 49534

~~Payments to an adoptive parent~~ (2) Services for which a 49535
public children services agency may make post adoption special 49536
services subsidy payments on behalf of a child under this division 49537
shall include medical, surgical, psychiatric, psychological, and 49538
counseling ~~expenses~~ services, including residential treatment. 49539

(3) The department of job and family services shall establish 49540
clinical standards to evaluate a child's physical or developmental 49541
handicap or mental or emotional condition and assess the child's 49542
need for services. 49543

(4) The total dollar value of post adoption special services 49544
subsidy payments made on a child's behalf shall not exceed ten 49545
thousand dollars in any fiscal year, unless the department 49546
determines that extraordinary circumstances exist that necessitate 49547
further funding of services for the child. Under such 49548
extraordinary circumstances, the value of the payments made on the 49549
child's behalf shall not exceed fifteen thousand dollars in any 49550
fiscal year. 49551

(5) The adoptive parent or parents of a child who receives 49552
post adoption special services subsidy payments shall pay at least 49553
five per cent of the total cost of all services provided to the 49554
child. 49555

(6) A public children services agency may use other sources 49556
of revenue to make post adoption special services subsidy 49557
payments, in addition to any state funds appropriated for that 49558
purpose. 49559

(D) No payment shall be made under division (B) or (C) of 49560
this section on behalf of any person eighteen years of age or 49561
older or, if mentally or physically handicapped, twenty-one years 49562
of age or older. Payments under those divisions shall be made in 49563
accordance with the terms of the agreement between the public 49564
children services agency and the adoptive parent, subject to an 49565
annual redetermination of need. The agency may use sources of 49566
funding in addition to any state funds appropriated for the 49567
purposes of those divisions. 49568

(E) The director of job and family services shall adopt rules 49569
in accordance with Chapter 119. of the Revised Code that are 49570
needed to implement this section. The rules shall establish all of 49571
the following: 49572

(1) The application process for payments all forms of 49573
assistance provided under this section; 49574

(2) The method to determine the ~~amounts and kinds~~ amount of 49575
assistance payable under division (B) of this section; 49576

(3) The definition of "child with special needs" for this 49577
section; 49578

(4) The process whereby a child's continuing need for 49579
services provided under division (B) of this section is annually 49580
redetermined; 49581

(5) The method of determining the amount, duration, and scope 49582
of services provided to a child under division (C) of this 49583
section; 49584

(6) Any other rule, requirement, or procedure the department 49585
considers appropriate for the implementation of this section. 49586

~~The rules shall allow for payments for children placed by~~ 49587
~~nonpublic agencies.~~ 49588

~~(E)~~(F) The state adoption special services subsidy program 49589
ceases to exist on July 1, 2004, except that, subject to the 49590
findings of the annual redetermination process established under 49591
division (E) of this section and the child's individual need for 49592
services, a public children services agency may continue to 49593
provide state adoption special services subsidy payments on behalf 49594
of a child for whom payments were being made prior to July 1, 49595
2004. 49596

(G) No public children services agency shall, pursuant to 49597
either section 2151.353 or 5103.15 of the Revised Code, place or 49598
maintain a child with special needs who is in the permanent 49599
custody of an institution or association certified by the 49600
department of job and family services under section 5103.03 of the 49601
Revised Code in a setting other than with a person seeking to 49602
adopt the child, unless the agency has determined and redetermined 49603
at intervals of not more than six months the impossibility of 49604

adoption by a person listed pursuant to division (B), (C), or (D) 49605
of section 5103.154 of the Revised Code, including the 49606
impossibility of entering into a payment agreement with such a 49607
person. The agency so maintaining such a child shall report its 49608
reasons for doing so to the department of job and family services. 49609
~~No agency that fails to so determine, redetermine, and report 49610~~
~~shall receive more than fifty per cent of the state funds to which 49611~~
~~it would otherwise be eligible for that part of the fiscal year 49612~~
~~following placement under section 5101.14 of the Revised Code. 49613~~

The department may take any action permitted under section 49614
5101.24 of the Revised Code for an agency's failure to determine, 49615
redetermine, and report on a child's status. 49616

Sec. 5153.60. (A) The department of job and family services 49617
shall establish a statewide program that provides ~~the~~ all of the 49618
following: 49619

(1) The training section 5153.122 of the Revised Code 49620
requires public children services agency caseworkers and 49621
supervisors to complete. ~~The program may also provide the;~~ 49622

(2) The preplacement and continuing training described in 49623
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 49624
Revised Code that foster caregivers are required by sections 49625
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain. 49626
~~The;~~ 49627

(3) The education programs for adoption assessors required by 49628
section 3107.014 of the Revised Code. 49629

(B) The training described in division (A)(3) of this section 49630
shall be conducted in accordance with rules adopted under section 49631
3107.015 of the Revised Code. 49632

(C) The program established pursuant to division (A) of this 49633
section shall be called the "Ohio child welfare training program." 49634

Sec. 5153.69. The training program steering committee shall 49635
monitor and evaluate the Ohio child welfare training program to 49636
ensure the following: 49637

(A) That the Ohio child welfare training program is a 49638
competency-based training system that satisfies the training 49639
requirements for public children services agency caseworkers and 49640
supervisors under section 5153.122 of the Revised Code; 49641

(B) That, ~~if~~ the Ohio child welfare training program provides 49642
preplacement or continuing training for foster caregivers, ~~it as~~ 49643
required by section 5153.60 of the Revised Code that meets the 49644
~~same~~ requirements ~~that~~ preplacement training programs and 49645
continuing training programs must meet pursuant to section 49646
5103.038 of the Revised Code to obtain approval by the department 49647
of job and family services, except that the Ohio child welfare 49648
training program is not required to obtain department approval. 49649

Sec. 5153.72. Prior to the beginning of the fiscal biennium 49650
that first follows ~~the effective date of this section~~ October 5, 49651
2000, the public children services agencies of Athens, Cuyahoga, 49652
Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties 49653
shall each establish and maintain a regional training center. At 49654
any time after the beginning of that biennium, the department of 49655
job and family services, on the recommendation of the training 49656
program steering committee, may direct a public children services 49657
agency to establish and maintain a training center to replace the 49658
center established by an agency under this section. There may be 49659
no more and no less than eight centers in existence at any time. 49660
The department may make a grant to a public children services 49661
agency that establishes and maintains a regional training center 49662
under this section for the purpose of wholly or partially 49663
subsidizing the operation of the center. 49664

Sec. 5153.78. (A) As used in this section: 49665

(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. 49666
49667

(2) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670(1980). 49668
49669

(3) "Title XX" has the same meaning as in section 5101.46 of the Revised Code. 49670
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(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: 49672
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(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; 49675
49676
49677

(2) Funds available under Title XX, Title IV-B, and Title IV-E to pay for training costs; 49678
49679

(3) Other available state or federal funds. 49680

Sec. 5502.13. The department of public safety shall maintain an investigative unit in order to conduct investigations and other enforcement activity authorized by Chapters 4301., 4303., 5101., 5107., ~~and 5108., and 5115.~~ and sections 2903.12, 2903.13, 2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 4507.30, ~~and 5115.03~~ of the Revised Code. The director of public safety shall appoint the employees of the unit who are necessary, designate the activities to be performed by those employees, and prescribe their titles and duties. 49681
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Sec. 5513.01. (A) All purchases of machinery, materials, supplies, or other articles that the director of transportation 49691
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makes shall be in the manner provided in this section. In all 49693
cases except those in which the director provides written 49694
authorization for purchases by district deputy directors of 49695
transportation, all such purchases shall be made at the central 49696
office of the department of transportation in Columbus. Before 49697
making any purchase at that office, the director, as provided in 49698
this section, shall give notice to bidders of the director's 49699
intention to purchase. Where the expenditure does not exceed the 49700
amount applicable to the purchase of supplies specified in 49701
division (B)(1) of section 125.05 of the Revised Code, as adjusted 49702
pursuant to division (D) of that section, the director shall give 49703
such notice as the director considers proper, or the director may 49704
make the purchase without notice. Where the expenditure exceeds 49705
the amount applicable to the purchase of supplies specified in 49706
division (B)(1) of section 125.05 of the Revised Code, as adjusted 49707
pursuant to division (D) of that section, the director shall give 49708
notice by posting for not less than ten days a written, typed, or 49709
printed invitation to bidders on a bulletin board, which shall be 49710
located in a place in the offices assigned to the department and 49711
open to the public during business hours. Producers or 49712
distributors of any product may notify the director, in writing, 49713
of the class of articles for the furnishing of which they desire 49714
to bid and their post-office addresses, in which case copies of 49715
all invitations to bidders relating to the purchase of such 49716
articles shall be mailed to such persons by the director by 49717
regular first class mail at least ten days prior to the time fixed 49718
for taking bids. The director also may mail copies of all 49719
invitations to bidders to news agencies or other agencies or 49720
organizations distributing information of this character. Requests 49721
for invitations shall not be valid nor require action by the 49722
director unless renewed, either annually or after such shorter 49723
period as the director may prescribe by a general rule. The 49724
invitation to bidders shall contain a brief statement of the 49725

general character of the article that it is intended to purchase, 49726
the approximate quantity desired, and a statement of the time and 49727
place where bids will be received, and may relate to and describe 49728
as many different articles as the director thinks proper, it being 49729
the intent and purpose of this section to authorize the inclusion 49730
in a single invitation of as many different articles as the 49731
director desires to invite bids upon at any given time. 49732
Invitations issued during each calendar year shall be given 49733
consecutive numbers, and the number assigned to each invitation 49734
shall appear on all copies thereof. In all cases where notice is 49735
required by this section, sealed bids shall be taken, on forms 49736
prescribed and furnished by the director, and modification of bids 49737
after they have been opened shall not be permitted. 49738

(B) The director may permit any political subdivision and any 49739
state university or college to participate in contracts into which 49740
the director has entered for the purchase of machinery, materials, 49741
supplies, or other articles. Any political subdivision or state 49742
university or college desiring to participate in such purchase 49743
contracts shall file with the director a certified copy of the 49744
ordinance or resolution of its legislative authority, board of 49745
trustees, or other governing board requesting authorization to 49746
participate in such contracts and agreeing to be bound by such 49747
terms and conditions as the director prescribes. Purchases made by 49748
political subdivisions or state universities or colleges under 49749
this division are exempt from any competitive bidding required by 49750
law for the purchase of machinery, materials, supplies, or other 49751
articles. 49752

(C) As used in this section: 49753

(1) "Political subdivision" means any county, township, 49754
municipal corporation, conservancy district, township park 49755
district, park district created under Chapter 1545. of the Revised 49756
Code, port authority, regional transit authority, regional airport 49757

authority, regional water and sewer district, or county transit board. 49758
49759

(2) "State university or college" has the same meaning as in division (A)(1) of section 3345.32 of the Revised Code. 49760
49761

Sec. 5515.07. (A) The director of transportation, in accordance with Chapter 119. of the Revised Code, shall adopt rules consistent with the safety of the traveling public and consistent with the national policy to govern the use and control of rest areas within the limits of the right-of-way of interstate highways and other state highways and in other areas within the limits of the right-of-way of interstate highways. 49762
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(B) Except as provided in division (C) of this section, no person shall engage in selling or offering for sale or exhibiting for purposes of sale, goods, products, merchandise, or services within the bounds of rest areas within the limits of the right-of-way of interstate highways and other state highways, or in other areas within the limits of the right-of-way of interstate highways, unless the director issues a permit in accordance with section 5515.01 of the Revised Code. Notwithstanding any rules adopted by the director to the contrary or any other policy changes proposed by the director, each district deputy director of the department of transportation shall continue to implement any program allowing organizations to dispense free coffee or similar items after obtaining a permit that operated within the district prior to January 1, 1997. Each district deputy director shall operate such program within the district in the same manner as the program was operated prior to that date. 49769
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(C) In accordance with rules adopted under division (A) of this section, the director may cause vending machines to be placed within each rest area that is able to accommodate the machines. The vending machines shall dispense food, drink, and other 49785
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appropriate articles. 49789

(D) This section does not apply to the sale of goods, 49790
products, merchandise, or services required for the emergency 49791
repair of motor vehicles or emergency medical treatment, or to the 49792
department of transportation as provided in section 5515.08 of the 49793
Revised Code. 49794

Sec. 5515.08. (A) The department of transportation may 49795
contract to sell commercial advertising space within or on the 49796
outside surfaces of any building located within a roadside rest 49797
area under its jurisdiction in exchange for cash payment. Money 49798
the department receives under this section shall be deposited in 49799
the state treasury to the credit of the roadside rest area 49800
improvement fund, which is hereby created. The department shall 49801
use the money in the fund only to improve roadside rest areas in 49802
accordance with section 5529.06 of the Revised Code. 49803

(B) Advertising placed under this section shall comply with 49804
all of the following: 49805

(1) It shall not be libelous or obscene and shall not promote 49806
any illegal product or service. 49807

(2) It shall not promote illegal discrimination on the basis 49808
of the race, religion, national origin, handicap, age, or ancestry 49809
of any person. 49810

(3) It shall not support or oppose any candidate for 49811
political office or any political cause, issue, or organization. 49812

(4) It shall comply with any controlling federal or state 49813
regulations or restrictions. 49814

(5) To the extent physically and technically practical, it 49815
shall state that the advertisement is a paid commercial 49816
advertisement and that the state does not endorse the product or 49817
service promoted by the advertisement or make any representation 49818

about the accuracy of the advertisement or the quality or 49819
performance of the product or service promoted by the 49820
advertisement. 49821

(6) It shall conform to all applicable rules adopted by the 49822
director of transportation under division (E) of this section. 49823

(C) Contracts entered into under this section shall be 49824
awarded only to the qualified bidder who submits the highest 49825
responsive bid or according to uniformly applied rate classes. 49826

(D) No person, except an advertiser alleging a breach of 49827
contract or the improper awarding of a contract, has a cause of 49828
action against the state with respect to any contract or 49829
advertising authorized by this section. Under no circumstances is 49830
the state liable for consequential or noneconomic damages with 49831
respect to any contract or advertising authorized under this 49832
section. 49833

(E) The director, in accordance with Chapter 119. of the 49834
Revised Code, shall adopt rules to implement this section. The 49835
rules shall be consistent with the policy of protecting the safety 49836
of the traveling public and consistent with the national policy 49837
governing the use and control of such roadside rest areas. The 49838
rules shall regulate the awarding of contracts and may regulate 49839
the content, display, and other aspects of the commercial 49840
advertising authorized by this section. 49841

Sec. 5705.39. The total appropriations from each fund shall 49842
not exceed the total of the estimated revenue available for 49843
expenditure therefrom, as certified by the budget commission, or 49844
in case of appeal, by the board of tax appeals. No appropriation 49845
measure shall become effective until the county auditor files with 49846
the appropriating authority ~~and in the case of a school district,~~ 49847
~~also files with the superintendent of public instruction,~~ a 49848
certificate that the total appropriations from each fund, taken 49849

together with all other outstanding appropriations, do not exceed 49850
such official estimate or amended official estimate. When the 49851
appropriation does not exceed such official estimate, the county 49852
auditor shall give such certificate forthwith upon receiving from 49853
the appropriating authority a certified copy of the appropriation 49854
measure, ~~a copy of which he shall deliver to the superintendent of~~ 49855
~~public instruction in the case of a school district.~~ 49856
Appropriations shall be made from each fund only for the purposes 49857
for which such fund is established. 49858

Sec. 5705.41. No subdivision or taxing unit shall: 49859

(A) Make any appropriation of money except as provided in 49860
Chapter 5705. of the Revised Code; provided, that the 49861
authorization of a bond issue shall be deemed to be an 49862
appropriation of the proceeds of the bond issue for the purpose 49863
for which such bonds were issued, but no expenditure shall be made 49864
from any bond fund until first authorized by the taxing authority; 49865

(B) Make any expenditure of money unless it has been 49866
appropriated as provided in such chapter; 49867

(C) Make any expenditure of money except by a proper warrant 49868
drawn against an appropriate fund; 49869

(D)(1) Except as otherwise provided in division (D)(2) of 49870
this section and section 5705.44 of the Revised Code, make any 49871
contract or give any order involving the expenditure of money 49872
unless there is attached thereto a certificate of the fiscal 49873
officer of the subdivision that the amount required to meet the 49874
obligation or, in the case of a continuing contract to be 49875
performed in whole or in part in an ensuing fiscal year, the 49876
amount required to meet the obligation in the fiscal year in which 49877
the contract is made, has been lawfully appropriated for such 49878
purpose and is in the treasury or in process of collection to the 49879
credit of an appropriate fund free from any previous encumbrances. 49880

This certificate need be signed only by the subdivision's fiscal officer. Every such contract made without such a certificate shall be void, and no warrant shall be issued in payment of any amount due thereon. If no certificate is furnished as required, upon receipt by the taxing authority of the subdivision or taxing unit of a certificate of the fiscal officer stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract and in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances, such taxing authority may authorize the drawing of a warrant in payment of amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days after the taxing authority receives such certificate; provided that, if the amount involved is less than one hundred dollars in the case of counties or three thousand dollars in the case of all other subdivisions or taxing units, the fiscal officer may authorize it to be paid without such affirmation of the taxing authority of the subdivision or taxing unit, if such expenditure is otherwise valid.

(2) Annually, the board of county commissioners may adopt a resolution exempting for the current fiscal year county purchases of seven hundred fifty dollars or less from the requirement of division (D)(1) of this section that a certificate be attached to any contract or order involving the expenditure of money. The resolution shall state the dollar amount that is exempted from the certificate requirement and whether the exemption applies to all purchases, to one or more specific classes of purchases, or to the purchase of one or more specific items. Prior to the adoption of the resolution, the board shall give written notice to the county auditor that it intends to adopt the resolution. The notice shall state the dollar amount that is proposed to be exempted and whether the exemption would apply to all purchases, to one or more

specific classes of purchases, or to the purchase of one or more 49914
specific items. The county auditor may review and comment on the 49915
proposal, and shall send any comments to the board within fifteen 49916
days after receiving the notice. The board shall wait at least 49917
fifteen days after giving the notice to the auditor before 49918
adopting the resolution. A person authorized to make a county 49919
purchase in a county that has adopted such a resolution shall 49920
prepare and file with the county auditor, within three business 49921
days after incurring an obligation not requiring a certificate, a 49922
written document specifying the purpose and amount of the 49923
expenditure, the date of the purchase, the name of the vendor, and 49924
such additional information as the auditor of state may prescribe. 49925

(3) Upon certification by the auditor or other chief fiscal 49926
officer that a certain sum of money, not in excess of ~~five~~ 49927
~~thousand dollars~~ an amount established by resolution or ordinance 49928
adopted by a majority of the members of the legislative authority 49929
of the subdivision or taxing unit, has been lawfully appropriated, 49930
authorized, or directed for a certain purpose and is in the 49931
treasury or in the process of collection to the credit of a 49932
specific line-item appropriation account in a certain fund free 49933
from previous and then outstanding obligations or certifications, 49934
then for such purpose and from such line-item appropriation 49935
account in such fund, over a period ~~not exceeding three months and~~ 49936
not extending beyond the end of the fiscal year, expenditures may 49937
be made, orders for payment issued, and contracts or obligations 49938
calling for or requiring the payment of money made and assumed; 49939
provided, that the aggregate sum of money included in and called 49940
for by such expenditures, orders, contracts, and obligations shall 49941
not exceed the sum so certified. Such a certification need be 49942
signed only by the fiscal officer of the subdivision or the taxing 49943
district and may, but need not, be limited to a specific vendor. 49944
An itemized statement of obligations incurred and expenditures 49945
made under such certificate shall be rendered to the auditor or 49946

other chief fiscal officer before another such certificate may be 49947
issued, and not more than one such certificate shall be 49948
outstanding at a time. 49949

In addition to providing the certification for expenditures 49950
~~of five thousand dollars or less~~ as ~~provided~~ specified in this 49951
division, a subdivision also may make expenditures, issue orders 49952
for payment, and make contracts or obligations calling for or 49953
requiring the payment of money made and assumed for specified 49954
permitted purposes from a specific line-item appropriation account 49955
in a specified fund for a sum of money upon the certification by 49956
the fiscal officer of the subdivision that this sum of money has 49957
been lawfully appropriated, authorized, or directed for a 49958
permitted purpose and is in the treasury or in the process of 49959
collection to the credit of the specific line-item appropriation 49960
account in the specified fund free from previous and 49961
then-outstanding obligations or certifications; provided that the 49962
aggregate sum of money included in and called for by the 49963
expenditures, orders, and obligations shall not exceed the 49964
certified sum. The purposes for which a subdivision may lawfully 49965
appropriate, authorize, or issue such a certificate are the 49966
services of an accountant, architect, attorney at law, physician, 49967
professional engineer, construction project manager, consultant, 49968
surveyor, or appraiser by or on behalf of the subdivision or 49969
contracting authority; fuel oil, gasoline, food items, roadway 49970
materials, and utilities; and any purchases exempt from 49971
competitive bidding under section 125.04 of the Revised Code and 49972
any other specific expenditure that is a recurring and reasonably 49973
predictable operating expense. Such a certification shall not 49974
extend beyond the end of the fiscal year or, in the case of a 49975
board of county commissioners that has established a quarterly 49976
spending plan under section 5705.392 of the Revised Code, beyond 49977
the quarter to which the plan applies. Such a certificate shall be 49978
signed by the fiscal officer and may, but need not, be limited to 49979

a specific vendor. An itemized statement of obligations incurred 49980
and expenditures made under such a certificate shall be rendered 49981
to the fiscal officer for each certificate issued. More than one 49982
such certificate may be outstanding at any time. 49983

In any case in which a contract is entered into upon a per 49984
unit basis, the head of the department, board, or commission for 49985
the benefit of which the contract is made shall make an estimate 49986
of the total amount to become due upon such contract, which 49987
estimate shall be certified in writing to the fiscal officer of 49988
the subdivision. Such a contract may be entered into if the 49989
appropriation covers such estimate, or so much thereof as may be 49990
due during the current year. In such a case the certificate of the 49991
fiscal officer based upon the estimate shall be a sufficient 49992
compliance with the law requiring a certificate. 49993

Any certificate of the fiscal officer attached to a contract 49994
shall be binding upon the political subdivision as to the facts 49995
set forth therein. Upon request of any person receiving an order 49996
or entering into a contract with any political subdivision, the 49997
certificate of the fiscal officer shall be attached to such order 49998
or contract. "Contract" as used in this section excludes current 49999
payrolls of regular employees and officers. 50000

Taxes and other revenue in process of collection, or the 50001
proceeds to be derived from authorized bonds, notes, or 50002
certificates of indebtedness sold and in process of delivery, 50003
shall for the purpose of this section be deemed in the treasury or 50004
in process of collection and in the appropriate fund. This section 50005
applies neither to the investment of sinking funds by the trustees 50006
of such funds, nor to investments made under sections 731.56 to 50007
731.59 of the Revised Code. 50008

No district authority shall, in transacting its own affairs, 50009
do any of the things prohibited to a subdivision by this section, 50010
but the appropriation referred to shall become the appropriation 50011

by the district authority, and the fiscal officer referred to 50012
shall mean the fiscal officer of the district authority. 50013

Sec. 5709.62. (A) In any municipal corporation that is 50014
defined by the United States office of management and budget as a 50015
central city of a metropolitan statistical area, the legislative 50016
authority of the municipal corporation may designate one or more 50017
areas within its municipal corporation as proposed enterprise 50018
zones. Upon designating an area, the legislative authority shall 50019
petition the director of development for certification of the area 50020
as having the characteristics set forth in division (A)(1) of 50021
section 5709.61 of the Revised Code as amended by Substitute 50022
Senate Bill No. 19 of the 120th general assembly. Except as 50023
otherwise provided in division (E) of this section, on and after 50024
July 1, 1994, legislative authorities shall not enter into 50025
agreements under this section unless the legislative authority has 50026
petitioned the director and the director has certified the zone 50027
under this section as amended by that act; however, all agreements 50028
entered into under this section as it existed prior to July 1, 50029
1994, and the incentives granted under those agreements shall 50030
remain in effect for the period agreed to under those agreements. 50031
Within sixty days after receiving such a petition, the director 50032
shall determine whether the area has the characteristics set forth 50033
in division (A)(1) of section 5709.61 of the Revised Code, and 50034
shall forward the findings to the legislative authority of the 50035
municipal corporation. If the director certifies the area as 50036
having those characteristics, and thereby certifies it as a zone, 50037
the legislative authority may enter into an agreement with an 50038
enterprise under division (C) of this section. 50039

(B) Any enterprise that wishes to enter into an agreement 50040
with a municipal corporation under division (C) of this section 50041
shall submit a proposal to the legislative authority of the 50042
municipal corporation on a form prescribed by the director of 50043

development, together with the application fee established under 50044
section 5709.68 of the Revised Code. The form shall require the 50045
following information: 50046

(1) An estimate of the number of new employees whom the 50047
enterprise intends to hire, or of the number of employees whom the 50048
enterprise intends to retain, within the zone at a facility that 50049
is a project site, and an estimate of the amount of payroll of the 50050
enterprise attributable to these employees; 50051

(2) An estimate of the amount to be invested by the 50052
enterprise to establish, expand, renovate, or occupy a facility, 50053
including investment in new buildings, additions or improvements 50054
to existing buildings, machinery, equipment, furniture, fixtures, 50055
and inventory; 50056

(3) A listing of the enterprise's current investment, if any, 50057
in a facility as of the date of the proposal's submission. 50058

The enterprise shall review and update the listings required 50059
under this division to reflect material changes, and any agreement 50060
entered into under division (C) of this section shall set forth 50061
final estimates and listings as of the time the agreement is 50062
entered into. The legislative authority may, on a separate form 50063
and at any time, require any additional information necessary to 50064
determine whether an enterprise is in compliance with an agreement 50065
and to collect the information required to be reported under 50066
section 5709.68 of the Revised Code. 50067

(C) Upon receipt and investigation of a proposal under 50068
division (B) of this section, if the legislative authority finds 50069
that the enterprise submitting the proposal is qualified by 50070
financial responsibility and business experience to create and 50071
preserve employment opportunities in the zone and improve the 50072
economic climate of the municipal corporation, the legislative 50073
authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one 50074

of the following: 50075

(1) Enter into an agreement with the enterprise under which 50076
the enterprise agrees to establish, expand, renovate, or occupy a 50077
facility and hire new employees, or preserve employment 50078
opportunities for existing employees, in return for one or more of 50079
the following incentives: 50080

(a) Exemption for a specified number of years, not to exceed 50081
ten, of a specified portion, up to seventy-five per cent, of the 50082
assessed value of tangible personal property first used in 50083
business at the project site as a result of the agreement. An 50084
exemption granted pursuant to this division applies to inventory 50085
required to be listed pursuant to sections 5711.15 and 5711.16 of 50086
the Revised Code, except that, in the instance of an expansion or 50087
other situations in which an enterprise was in business at the 50088
facility prior to the establishment of the zone, the inventory 50089
that is exempt is that amount or value of inventory in excess of 50090
the amount or value of inventory required to be listed in the 50091
personal property tax return of the enterprise in the return for 50092
the tax year in which the agreement is entered into. 50093

(b) Exemption for a specified number of years, not to exceed 50094
ten, of a specified portion, up to seventy-five per cent, of the 50095
increase in the assessed valuation of real property constituting 50096
the project site subsequent to formal approval of the agreement by 50097
the legislative authority; 50098

(c) Provision for a specified number of years, not to exceed 50099
ten, of any optional services or assistance that the municipal 50100
corporation is authorized to provide with regard to the project 50101
site. 50102

(2) Enter into an agreement under which the enterprise agrees 50103
to remediate an environmentally contaminated facility, to spend an 50104
amount equal to at least two hundred fifty per cent of the true 50105

value in money of the real property of the facility prior to 50106
remediation as determined for the purposes of property taxation to 50107
establish, expand, renovate, or occupy the remediated facility, 50108
and to hire new employees or preserve employment opportunities for 50109
existing employees at the remediated facility, in return for one 50110
or more of the following incentives: 50111

(a) Exemption for a specified number of years, not to exceed 50112
ten, of a specified portion, not to exceed fifty per cent, of the 50113
assessed valuation of the real property of the facility prior to 50114
remediation; 50115

(b) Exemption for a specified number of years, not to exceed 50116
ten, of a specified portion, not to exceed one hundred per cent, 50117
of the increase in the assessed valuation of the real property of 50118
the facility during or after remediation; 50119

(c) The incentive under division (C)(1)(a) of this section, 50120
except that the percentage of the assessed value of such property 50121
exempted from taxation shall not exceed one hundred per cent; 50122

(d) The incentive under division (C)(1)(c) of this section. 50123

(3) Enter into an agreement with an enterprise that plans to 50124
purchase and operate a large manufacturing facility that has 50125
ceased operation or announced its intention to cease operation, in 50126
return for exemption for a specified number of years, not to 50127
exceed ten, of a specified portion, up to one hundred per cent, of 50128
the assessed value of tangible personal property used in business 50129
at the project site as a result of the agreement, or of the 50130
assessed valuation of real property constituting the project site, 50131
or both. 50132

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 50133
section, the portion of the assessed value of tangible personal 50134
property or of the increase in the assessed valuation of real 50135
property exempted from taxation under those divisions may exceed 50136

seventy-five per cent in any year for which that portion is 50137
exempted if the average percentage exempted for all years in which 50138
the agreement is in effect does not exceed sixty per cent, or if 50139
the board of education of the city, local, or exempted village 50140
school district within the territory of which the property is or 50141
will be located approves a percentage in excess of seventy-five 50142
per cent. For the purpose of obtaining such approval, the 50143
legislative authority shall deliver to the board of education a 50144
notice not later than forty-five days prior to approving the 50145
agreement, excluding Saturdays, Sundays, and legal holidays as 50146
defined in section 1.14 of the Revised Code. The notice shall 50147
state the percentage to be exempted, an estimate of the true value 50148
of the property to be exempted, and the number of years the 50149
property is to be exempted. The board of education, by resolution 50150
adopted by a majority of the board, shall approve or disapprove 50151
the agreement and certify a copy of the resolution to the 50152
legislative authority not later than fourteen days prior to the 50153
date stipulated by the legislative authority as the date upon 50154
which approval of the agreement is to be formally considered by 50155
the legislative authority. The board of education may include in 50156
the resolution conditions under which the board would approve the 50157
agreement, including the execution of an agreement to compensate 50158
the school district under division (B) of section 5709.82 of the 50159
Revised Code. The legislative authority may approve the agreement 50160
at any time after the board of education certifies its resolution 50161
approving the agreement to the legislative authority, or, if the 50162
board approves the agreement conditionally, at any time after the 50163
conditions are agreed to by the board and the legislative 50164
authority. 50165

If a board of education has adopted a resolution waiving its 50166
right to approve agreements and the resolution remains in effect, 50167
approval of an agreement by the board is not required under this 50168
division. If a board of education has adopted a resolution 50169

allowing a legislative authority to deliver the notice required 50170
under this division fewer than forty-five business days prior to 50171
the legislative authority's approval of the agreement, the 50172
legislative authority shall deliver the notice to the board not 50173
later than the number of days prior to such approval as prescribed 50174
by the board in its resolution. If a board of education adopts a 50175
resolution waiving its right to approve agreements or shortening 50176
the notification period, the board shall certify a copy of the 50177
resolution to the legislative authority. If the board of education 50178
rescinds such a resolution, it shall certify notice of the 50179
rescission to the legislative authority. 50180

(2) The legislative authority shall comply with section 50181
5709.83 of the Revised Code unless the board of education has 50182
adopted a resolution under that section waiving its right to 50183
receive such notice. 50184

(E) This division applies to zones certified by the director 50185
of development under this section prior to July 22, 1994. 50186

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 50187
authority that designated a zone to which this division applies 50188
may enter into an agreement with an enterprise if the legislative 50189
authority makes the finding required under that division and 50190
determines that the enterprise satisfies one of the criteria 50191
described in divisions (E)(1) to (5) of this section: 50192

(1) The enterprise currently has no operations in this state 50193
and, subject to approval of the agreement, intends to establish 50194
operations in the zone; 50195

(2) The enterprise currently has operations in this state 50196
and, subject to approval of the agreement, intends to establish 50197
operations at a new location in the zone that would not result in 50198
a reduction in the number of employee positions at any of the 50199
enterprise's other locations in this state; 50200

(3) The enterprise, subject to approval of the agreement, 50201
intends to relocate operations, currently located in another 50202
state, to the zone; 50203

(4) The enterprise, subject to approval of the agreement, 50204
intends to expand operations at an existing site in the zone that 50205
the enterprise currently operates; 50206

(5) The enterprise, subject to approval of the agreement, 50207
intends to relocate operations, currently located in this state, 50208
to the zone, and the director of development has issued a waiver 50209
for the enterprise under division (B) of section 5709.633 of the 50210
Revised Code. 50211

The agreement shall require the enterprise to agree to 50212
establish, expand, renovate, or occupy a facility in the zone and 50213
hire new employees, or preserve employment opportunities for 50214
existing employees, in return for one or more of the incentives 50215
described in division (C) of this section. 50216

(F) All agreements entered into under this section shall be 50217
in the form prescribed under section 5709.631 of the Revised Code. 50218
After an agreement is entered into under this division, if the 50219
legislative authority revokes its designation of a zone, or if the 50220
director of development revokes the zone's certification, any 50221
entitlements granted under the agreement shall continue for the 50222
number of years specified in the agreement. 50223

(G) Except as otherwise provided in this division, an 50224
agreement entered into under this section shall require that the 50225
enterprise pay an annual fee equal to the greater of one per cent 50226
of the dollar value of incentives offered under the agreement or 50227
five hundred dollars; provided, however, that if the value of the 50228
incentives exceeds two hundred fifty thousand dollars, the fee 50229
shall not exceed two thousand five hundred dollars. The fee shall 50230
be payable to the legislative authority once per year for each 50231

year the agreement is effective on the days and in the form 50232
specified in the agreement. Fees paid shall be deposited in a 50233
special fund created for such purpose by the legislative authority 50234
and shall be used by the legislative authority exclusively for the 50235
purpose of complying with section 5709.68 of the Revised Code and 50236
by the tax incentive review council created under section 5709.85 50237
of the Revised Code exclusively for the purposes of performing the 50238
duties prescribed under that section. The legislative authority 50239
may waive or reduce the amount of the fee charged against an 50240
enterprise, but such a waiver or reduction does not affect the 50241
obligations of the legislative authority or the tax incentive 50242
review council to comply with section 5709.68 or 5709.85 of the 50243
Revised Code. 50244

(H) When an agreement is entered into pursuant to this 50245
section, the legislative authority authorizing the agreement shall 50246
forward a copy of the agreement to the director of development and 50247
to the tax commissioner within fifteen days after the agreement is 50248
entered into. If any agreement includes terms not provided for in 50249
section 5709.631 of the Revised Code affecting the revenue of a 50250
city, local, or exempted village school district or causing 50251
revenue to be foregone by the district, including any compensation 50252
to be paid to the school district pursuant to section 5709.82 of 50253
the Revised Code, those terms also shall be forwarded in writing 50254
to the director of development along with the copy of the 50255
agreement forwarded under this division. 50256

(I) After an agreement is entered into, the enterprise shall 50257
file with each personal property tax return required to be filed, 50258
or annual report required to be filed under section 5727.08 of the 50259
Revised Code, while the agreement is in effect, an informational 50260
return, on a form prescribed by the tax commissioner for that 50261
purpose, setting forth separately the property, and related costs 50262
and values, exempted from taxation under the agreement. 50263

(J) Enterprises may agree to give preference to residents of 50264
the zone within which the agreement applies relative to residents 50265
of this state who do not reside in the zone when hiring new 50266
employees under the agreement. 50267

(K) An agreement entered into under this section may include 50268
a provision requiring the enterprise to create one or more 50269
temporary internship positions for students enrolled in a course 50270
of study at a school or other educational institution in the 50271
vicinity, and to create a scholarship or provide another form of 50272
educational financial assistance for students holding such a 50273
position in exchange for the student's commitment to work for the 50274
enterprise at the completion of the internship. 50275

Sec. 5709.63. (A) With the consent of the legislative 50276
authority of each affected municipal corporation or of a board of 50277
township trustees, a board of county commissioners may, in the 50278
manner set forth in section 5709.62 of the Revised Code, designate 50279
one or more areas in one or more municipal corporations or in 50280
unincorporated areas of the county as proposed enterprise zones. A 50281
board of county commissioners may designate no more than one area 50282
within a township, or within adjacent townships, as a proposed 50283
enterprise zone. The board shall petition the director of 50284
development for certification of the area as having the 50285
characteristics set forth in division (A)(1) or (2) of section 50286
5709.61 of the Revised Code as amended by Substitute Senate Bill 50287
No. 19 of the 120th general assembly. Except as otherwise provided 50288
in division (D) of this section, on and after July 1, 1994, boards 50289
of county commissioners shall not enter into agreements under this 50290
section unless the board has petitioned the director and the 50291
director has certified the zone under this section as amended by 50292
that act; however, all agreements entered into under this section 50293
as it existed prior to July 1, 1994, and the incentives granted 50294

under those agreements shall remain in effect for the period 50295
agreed to under those agreements. The director shall make the 50296
determination in the manner provided under section 5709.62 of the 50297
Revised Code. Any enterprise wishing to enter into an agreement 50298
with the board under division (B) or (D) of this section shall 50299
submit a proposal to the board on the form and accompanied by the 50300
application fee prescribed under division (B) of section 5709.62 50301
of the Revised Code. The enterprise shall review and update the 50302
estimates and listings required by the form in the manner required 50303
under that division. The board may, on a separate form and at any 50304
time, require any additional information necessary to determine 50305
whether an enterprise is in compliance with an agreement and to 50306
collect the information required to be reported under section 50307
5709.68 of the Revised Code. 50308

(B) If the board of county commissioners finds that an 50309
enterprise submitting a proposal is qualified by financial 50310
responsibility and business experience to create and preserve 50311
employment opportunities in the zone and to improve the economic 50312
climate of the municipal corporation or municipal corporations or 50313
the unincorporated areas in which the zone is located and to which 50314
the proposal applies, the board, on or before ~~June 30, 2004~~ 50315
October 15, 2009, and with the consent of the legislative 50316
authority of each affected municipal corporation or of the board 50317
of township trustees may do either of the following: 50318

(1) Enter into an agreement with the enterprise under which 50319
the enterprise agrees to establish, expand, renovate, or occupy a 50320
facility in the zone and hire new employees, or preserve 50321
employment opportunities for existing employees, in return for the 50322
following incentives: 50323

(a) When the facility is located in a municipal corporation, 50324
the board may enter into an agreement for one or more of the 50325
incentives provided in division (C) of section 5709.62 of the 50326

Revised Code, subject to division (D) of that section; 50327

(b) When the facility is located in an unincorporated area, 50328
the board may enter into an agreement for one or more of the 50329
following incentives: 50330

(i) Exemption for a specified number of years, not to exceed 50331
ten, of a specified portion, up to sixty per cent, of the assessed 50332
value of tangible personal property first used in business at a 50333
project site as a result of the agreement. An exemption granted 50334
pursuant to this division applies to inventory required to be 50335
listed pursuant to sections 5711.15 and 5711.16 of the Revised 50336
Code, except, in the instance of an expansion or other situations 50337
in which an enterprise was in business at the facility prior to 50338
the establishment of the zone, the inventory that is exempt is 50339
that amount or value of inventory in excess of the amount or value 50340
of inventory required to be listed in the personal property tax 50341
return of the enterprise in the return for the tax year in which 50342
the agreement is entered into. 50343

(ii) Exemption for a specified number of years, not to exceed 50344
ten, of a specified portion, up to sixty per cent, of the increase 50345
in the assessed valuation of real property constituting the 50346
project site subsequent to formal approval of the agreement by the 50347
board; 50348

(iii) Provision for a specified number of years, not to 50349
exceed ten, of any optional services or assistance the board is 50350
authorized to provide with regard to the project site; 50351

(iv) The incentive described in division (C)(2) of section 50352
5709.62 of the Revised Code. 50353

(2) Enter into an agreement with an enterprise that plans to 50354
purchase and operate a large manufacturing facility that has 50355
ceased operation or has announced its intention to cease 50356
operation, in return for exemption for a specified number of 50357

years, not to exceed ten, of a specified portion, up to one 50358
hundred per cent, of tangible personal property used in business 50359
at the project site as a result of the agreement, or of real 50360
property constituting the project site, or both. 50361

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 50362
this section, the portion of the assessed value of tangible 50363
personal property or of the increase in the assessed valuation of 50364
real property exempted from taxation under those divisions may 50365
exceed sixty per cent in any year for which that portion is 50366
exempted if the average percentage exempted for all years in which 50367
the agreement is in effect does not exceed fifty per cent, or if 50368
the board of education of the city, local, or exempted village 50369
school district within the territory of which the property is or 50370
will be located approves a percentage in excess of sixty per cent. 50371
For the purpose of obtaining such approval, the board of 50372
commissioners shall deliver to the board of education a notice not 50373
later than forty-five days prior to approving the agreement, 50374
excluding Saturdays, Sundays, and legal holidays as defined in 50375
section 1.14 of the Revised Code. The notice shall state the 50376
percentage to be exempted, an estimate of the true value of the 50377
property to be exempted, and the number of years the property is 50378
to be exempted. The board of education, by resolution adopted by a 50379
majority of the board, shall approve or disapprove the agreement 50380
and certify a copy of the resolution to the board of commissioners 50381
not later than fourteen days prior to the date stipulated by the 50382
board of commissioners as the date upon which approval of the 50383
agreement is to be formally considered by the board of 50384
commissioners. The board of education may include in the 50385
resolution conditions under which the board would approve the 50386
agreement, including the execution of an agreement to compensate 50387
the school district under division (B) of section 5709.82 of the 50388
Revised Code. The board of county commissioners may approve the 50389
agreement at any time after the board of education certifies its 50390

resolution approving the agreement to the board of county 50391
commissioners, or, if the board of education approves the 50392
agreement conditionally, at any time after the conditions are 50393
agreed to by the board of education and the board of county 50394
commissioners. 50395

If a board of education has adopted a resolution waiving its 50396
right to approve agreements and the resolution remains in effect, 50397
approval of an agreement by the board of education is not required 50398
under division (C) of this section. If a board of education has 50399
adopted a resolution allowing a board of county commissioners to 50400
deliver the notice required under this division fewer than 50401
forty-five business days prior to approval of the agreement by the 50402
board of county commissioners, the board of county commissioners 50403
shall deliver the notice to the board of education not later than 50404
the number of days prior to such approval as prescribed by the 50405
board of education in its resolution. If a board of education 50406
adopts a resolution waiving its right to approve agreements or 50407
shortening the notification period, the board of education shall 50408
certify a copy of the resolution to the board of county 50409
commissioners. If the board of education rescinds such a 50410
resolution, it shall certify notice of the rescission to the board 50411
of county commissioners. 50412

(2) The board of county commissioners shall comply with 50413
section 5709.83 of the Revised Code unless the board of education 50414
has adopted a resolution under that section waiving its right to 50415
receive such notice. 50416

(D) This division applies to zones certified by the director 50417
of development under this section prior to July 22, 1994. 50418

On or before ~~June 30, 2004~~ October 15, 2009, and with the 50419
consent of the legislative authority of each affected municipal 50420
corporation or board of township trustees of each affected 50421
township, the board of commissioners that designated a zone to 50422

which this division applies may enter into an agreement with an 50423
enterprise if the board makes the finding required under that 50424
division and determines that the enterprise satisfies one of the 50425
criteria described in divisions (D)(1) to (5) of this section: 50426

(1) The enterprise currently has no operations in this state 50427
and, subject to approval of the agreement, intends to establish 50428
operations in the zone; 50429

(2) The enterprise currently has operations in this state 50430
and, subject to approval of the agreement, intends to establish 50431
operations at a new location in the zone that would not result in 50432
a reduction in the number of employee positions at any of the 50433
enterprise's other locations in this state; 50434

(3) The enterprise, subject to approval of the agreement, 50435
intends to relocate operations, currently located in another 50436
state, to the zone; 50437

(4) The enterprise, subject to approval of the agreement, 50438
intends to expand operations at an existing site in the zone that 50439
the enterprise currently operates; 50440

(5) The enterprise, subject to approval of the agreement, 50441
intends to relocate operations, currently located in this state, 50442
to the zone, and the director of development has issued a waiver 50443
for the enterprise under division (B) of section 5709.633 of the 50444
Revised Code. 50445

The agreement shall require the enterprise to agree to 50446
establish, expand, renovate, or occupy a facility in the zone and 50447
hire new employees, or preserve employment opportunities for 50448
existing employees, in return for one or more of the incentives 50449
described in division (B) of this section. 50450

(E) All agreements entered into under this section shall be 50451
in the form prescribed under section 5709.631 of the Revised Code. 50452
After an agreement under this section is entered into, if the 50453

board of county commissioners revokes its designation of the zone, 50454
or if the director of development revokes the zone's 50455
certification, any entitlements granted under the agreement shall 50456
continue for the number of years specified in the agreement. 50457

(F) Except as otherwise provided in this paragraph, an 50458
agreement entered into under this section shall require that the 50459
enterprise pay an annual fee equal to the greater of one per cent 50460
of the dollar value of incentives offered under the agreement or 50461
five hundred dollars; provided, however, that if the value of the 50462
incentives exceeds two hundred fifty thousand dollars, the fee 50463
shall not exceed two thousand five hundred dollars. The fee shall 50464
be payable to the board of commissioners once per year for each 50465
year the agreement is effective on the days and in the form 50466
specified in the agreement. Fees paid shall be deposited in a 50467
special fund created for such purpose by the board and shall be 50468
used by the board exclusively for the purpose of complying with 50469
section 5709.68 of the Revised Code and by the tax incentive 50470
review council created under section 5709.85 of the Revised Code 50471
exclusively for the purposes of performing the duties prescribed 50472
under that section. The board may waive or reduce the amount of 50473
the fee charged against an enterprise, but such waiver or 50474
reduction does not affect the obligations of the board or the tax 50475
incentive review council to comply with section 5709.68 or 5709.85 50476
of the Revised Code, respectively. 50477

(G) With the approval of the legislative authority of a 50478
municipal corporation or the board of township trustees of a 50479
township in which a zone is designated under division (A) of this 50480
section, the board of county commissioners may delegate to that 50481
legislative authority or board any powers and duties of the board 50482
to negotiate and administer agreements with regard to that zone 50483
under this section. 50484

(H) When an agreement is entered into pursuant to this 50485

section, the legislative authority authorizing the agreement shall 50486
forward a copy of the agreement to the director of development and 50487
to the tax commissioner within fifteen days after the agreement is 50488
entered into. If any agreement includes terms not provided for in 50489
section 5709.631 of the Revised Code affecting the revenue of a 50490
city, local, or exempted village school district or causing 50491
revenue to be foregone by the district, including any compensation 50492
to be paid to the school district pursuant to section 5709.82 of 50493
the Revised Code, those terms also shall be forwarded in writing 50494
to the director of development along with the copy of the 50495
agreement forwarded under this division. 50496

(I) After an agreement is entered into, the enterprise shall 50497
file with each personal property tax return required to be filed, 50498
or annual report that is required to be filed under section 50499
5727.08 of the Revised Code, while the agreement is in effect, an 50500
informational return, on a form prescribed by the tax commissioner 50501
for that purpose, setting forth separately the property, and 50502
related costs and values, exempted from taxation under the 50503
agreement. 50504

(J) Enterprises may agree to give preference to residents of 50505
the zone within which the agreement applies relative to residents 50506
of this state who do not reside in the zone when hiring new 50507
employees under the agreement. 50508

(K) An agreement entered into under this section may include 50509
a provision requiring the enterprise to create one or more 50510
temporary internship positions for students enrolled in a course 50511
of study at a school or other educational institution in the 50512
vicinity, and to create a scholarship or provide another form of 50513
educational financial assistance for students holding such a 50514
position in exchange for the student's commitment to work for the 50515
enterprise at the completion of the internship. 50516

Sec. 5709.632. (A)(1) The legislative authority of a 50517
municipal corporation defined by the United States office of 50518
management and budget as a central city of a metropolitan 50519
statistical area may, in the manner set forth in section 5709.62 50520
of the Revised Code, designate one or more areas in the municipal 50521
corporation as a proposed enterprise zone. 50522

(2) With the consent of the legislative authority of each 50523
affected municipal corporation or of a board of township trustees, 50524
a board of county commissioners may, in the manner set forth in 50525
section 5709.62 of the Revised Code, designate one or more areas 50526
in one or more municipal corporations or in unincorporated areas 50527
of the county as proposed urban jobs and enterprise zones, except 50528
that a board of county commissioners may designate no more than 50529
one area within a township, or within adjacent townships, as a 50530
proposed urban jobs and enterprise zone. 50531

(3) The legislative authority or board of county 50532
commissioners may petition the director of development for 50533
certification of the area as having the characteristics set forth 50534
in division (A)(3) of section 5709.61 of the Revised Code. Within 50535
sixty days after receiving such a petition, the director shall 50536
determine whether the area has the characteristics set forth in 50537
that division and forward the findings to the legislative 50538
authority or board of county commissioners. If the director 50539
certifies the area as having those characteristics and thereby 50540
certifies it as a zone, the legislative authority or board may 50541
enter into agreements with enterprises under division (B) of this 50542
section. Any enterprise wishing to enter into an agreement with a 50543
legislative authority or board of commissioners under this section 50544
and satisfying one of the criteria described in divisions (B)(1) 50545
to (5) of this section shall submit a proposal to the legislative 50546
authority or board on the form prescribed under division (B) of 50547

section 5709.62 of the Revised Code and shall review and update 50548
the estimates and listings required by the form in the manner 50549
required under that division. The legislative authority or board 50550
may, on a separate form and at any time, require any additional 50551
information necessary to determine whether an enterprise is in 50552
compliance with an agreement and to collect the information 50553
required to be reported under section 5709.68 of the Revised Code. 50554

(B) Prior to entering into an agreement with an enterprise, 50555
the legislative authority or board of county commissioners shall 50556
determine whether the enterprise submitting the proposal is 50557
qualified by financial responsibility and business experience to 50558
create and preserve employment opportunities in the zone and to 50559
improve the economic climate of the municipal corporation or 50560
municipal corporations or the unincorporated areas in which the 50561
zone is located and to which the proposal applies, and whether the 50562
enterprise satisfies one of the following criteria: 50563

(1) The enterprise currently has no operations in this state 50564
and, subject to approval of the agreement, intends to establish 50565
operations in the zone; 50566

(2) The enterprise currently has operations in this state 50567
and, subject to approval of the agreement, intends to establish 50568
operations at a new location in the zone that would not result in 50569
a reduction in the number of employee positions at any of the 50570
enterprise's other locations in this state; 50571

(3) The enterprise, subject to approval of the agreement, 50572
intends to relocate operations, currently located in another 50573
state, to the zone; 50574

(4) The enterprise, subject to approval of the agreement, 50575
intends to expand operations at an existing site in the zone that 50576
the enterprise currently operates; 50577

(5) The enterprise, subject to approval of the agreement, 50578

intends to relocate operations, currently located in this state, 50579
to the zone, and the director of development has issued a waiver 50580
for the enterprise under division (B) of section 5709.633 of the 50581
Revised Code. 50582

(C) If the legislative authority or board determines that the 50583
enterprise is so qualified and satisfies one of the criteria 50584
described in divisions (B)(1) to (5) of this section, the 50585
legislative authority or board may, after complying with section 50586
5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 50587
15, 2009, and, in the case of a board of commissioners, with the 50588
consent of the legislative authority of each affected municipal 50589
corporation or of the board of township trustees, enter into an 50590
agreement with the enterprise under which the enterprise agrees to 50591
establish, expand, renovate, or occupy a facility in the zone and 50592
hire new employees, or preserve employment opportunities for 50593
existing employees, in return for the following incentives: 50594

(1) When the facility is located in a municipal corporation, 50595
a legislative authority or board of commissioners may enter into 50596
an agreement for one or more of the incentives provided in 50597
division (C) of section 5709.62 of the Revised Code, subject to 50598
division (D) of that section; 50599

(2) When the facility is located in an unincorporated area, a 50600
board of commissioners may enter into an agreement for one or more 50601
of the incentives provided in divisions (B)(1)(b), (B)(2), and 50602
(B)(3) of section 5709.63 of the Revised Code, subject to division 50603
(C) of that section. 50604

(D) All agreements entered into under this section shall be 50605
in the form prescribed under section 5709.631 of the Revised Code. 50606
After an agreement under this section is entered into, if the 50607
legislative authority or board of county commissioners revokes its 50608
designation of the zone, or if the director of development revokes 50609
the zone's certification, any entitlements granted under the 50610

agreement shall continue for the number of years specified in the 50611
agreement. 50612

(E) Except as otherwise provided in this division, an 50613
agreement entered into under this section shall require that the 50614
enterprise pay an annual fee equal to the greater of one per cent 50615
of the dollar value of incentives offered under the agreement or 50616
five hundred dollars; provided, however, that if the value of the 50617
incentives exceeds two hundred fifty thousand dollars, the fee 50618
shall not exceed two thousand five hundred dollars. The fee shall 50619
be payable to the legislative authority or board of commissioners 50620
once per year for each year the agreement is effective on the days 50621
and in the form specified in the agreement. Fees paid shall be 50622
deposited in a special fund created for such purpose by the 50623
legislative authority or board and shall be used by the 50624
legislative authority or board exclusively for the purpose of 50625
complying with section 5709.68 of the Revised Code and by the tax 50626
incentive review council created under section 5709.85 of the 50627
Revised Code exclusively for the purposes of performing the duties 50628
prescribed under that section. The legislative authority or board 50629
may waive or reduce the amount of the fee charged against an 50630
enterprise, but such waiver or reduction does not affect the 50631
obligations of the legislative authority or board or the tax 50632
incentive review council to comply with section 5709.68 or 5709.85 50633
of the Revised Code, respectively. 50634

(F) With the approval of the legislative authority of a 50635
municipal corporation or the board of township trustees of a 50636
township in which a zone is designated under division (A)(2) of 50637
this section, the board of county commissioners may delegate to 50638
that legislative authority or board any powers and duties of the 50639
board to negotiate and administer agreements with regard to that 50640
zone under this section. 50641

(G) When an agreement is entered into pursuant to this 50642

section, the legislative authority or board of commissioners 50643
authorizing the agreement shall forward a copy of the agreement to 50644
the director of development and to the tax commissioner within 50645
fifteen days after the agreement is entered into. If any agreement 50646
includes terms not provided for in section 5709.631 of the Revised 50647
Code affecting the revenue of a city, local, or exempted village 50648
school district or causing revenue to be foregone by the district, 50649
including any compensation to be paid to the school district 50650
pursuant to section 5709.82 of the Revised Code, those terms also 50651
shall be forwarded in writing to the director of development along 50652
with the copy of the agreement forwarded under this division. 50653

(H) After an agreement is entered into, the enterprise shall 50654
file with each personal property tax return required to be filed 50655
while the agreement is in effect, an informational return, on a 50656
form prescribed by the tax commissioner for that purpose, setting 50657
forth separately the property, and related costs and values, 50658
exempted from taxation under the agreement. 50659

(I) An agreement entered into under this section may include 50660
a provision requiring the enterprise to create one or more 50661
temporary internship positions for students enrolled in a course 50662
of study at a school or other educational institution in the 50663
vicinity, and to create a scholarship or provide another form of 50664
educational financial assistance for students holding such a 50665
position in exchange for the student's commitment to work for the 50666
enterprise at the completion of the internship. 50667

Sec. 5709.64. (A) If an enterprise has been granted an 50668
incentive for the current calendar year under an agreement entered 50669
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 50670
Code, it may apply, on or before the thirtieth day of April of 50671
that year, to the director of development, on a form prescribed by 50672
the director, for a tax incentive qualification certificate. The 50673

enterprise qualifies for an initial certificate if, on or before 50674
the last day of the calendar year immediately preceding that in 50675
which application is made, it satisfies all of the following 50676
requirements: 50677

(1) The enterprise has established, expanded, renovated, or 50678
occupied a facility pursuant to the agreement under section 50679
5709.62, 5709.63, or 5709.632 of the Revised Code. 50680

(2) The enterprise has hired new employees to fill nonretail 50681
positions at the facility, at least twenty-five per cent of whom 50682
at the time they were employed were at least one of the following: 50683

(a) Unemployed persons who had resided at least six months in 50684
the county in which the enterprise's project site is located; 50685

(b) JPTA eligible employees who had resided at least six 50686
months in the county in which the enterprise's project site is 50687
located; 50688

(c) Participants of the Ohio works first program under 50689
Chapter 5107. of the Revised Code or the prevention, retention, 50690
and contingency program under Chapter 5108. of the Revised Code or 50691
recipients of general assistance under former Chapter 5113. of the 50692
Revised Code, ~~disability~~ financial assistance under Chapter 5115. 50693
of the Revised Code, or unemployment compensation benefits who had 50694
resided at least six months in the county in which the 50695
enterprise's project site is located; 50696

(d) Handicapped persons, as defined under division (A) of 50697
section 3304.11 of the Revised Code, who had resided at least six 50698
months in the county in which the enterprise's project site is 50699
located; 50700

(e) Residents for at least one year of a zone located in the 50701
county in which the enterprise's project site is located. 50702

The director of development shall, by rule, establish 50703

criteria for determining what constitutes a nonretail position at 50704
a facility. 50705

(3) The average number of positions attributable to the 50706
enterprise in the municipal corporation during the calendar year 50707
immediately preceding the calendar year in which application is 50708
made exceeds the maximum number of positions attributable to the 50709
enterprise in the municipal corporation during the calendar year 50710
immediately preceding the first year the enterprise satisfies the 50711
requirements set forth in divisions (A)(1) and (2) of this 50712
section. If the enterprise is engaged in a business which, because 50713
of its seasonal nature, customarily enables the enterprise to 50714
operate at full capacity only during regularly recurring periods 50715
of the year, the average number of positions attributable to the 50716
enterprise in the municipal corporation during each period of the 50717
calendar year immediately preceding the calendar year in which 50718
application is made must exceed only the maximum number of 50719
positions attributable to the enterprise in each corresponding 50720
period of the calendar year immediately preceding the first year 50721
the enterprise satisfies the requirements of divisions (A)(1) and 50722
(2) of this section. The director of development shall, by rule, 50723
prescribe methods for determining whether an enterprise is engaged 50724
in a seasonal business and for determining the length of the 50725
corresponding periods to be compared. 50726

(4) The enterprise has not closed or reduced employment at 50727
any place of business in the state for the primary purpose of 50728
establishing, expanding, renovating, or occupying a facility. The 50729
legislative authority of any municipal corporation or the board of 50730
county commissioners of any county that concludes that an 50731
enterprise has closed or reduced employment at a place of business 50732
in that municipal corporation or county for the primary purpose of 50733
establishing, expanding, renovating, or occupying a facility in a 50734
zone may appeal to the director to determine whether the 50735

enterprise has done so. Upon receiving such an appeal, the 50736
director shall investigate the allegations and make such a 50737
determination before issuing an initial or renewal tax incentive 50738
qualification certificate under this section. 50739

Within sixty days after receiving an application under this 50740
division, the director shall review, investigate, and verify the 50741
application and determine whether the enterprise qualifies for a 50742
certificate. The application shall include an affidavit executed 50743
by the applicant verifying that the enterprise satisfies the 50744
requirements of division (A)(2) of this section, and shall contain 50745
such information and documents as the director requires, by rule, 50746
to ascertain whether the enterprise qualifies for a certificate. 50747
If the director finds the enterprise qualified, the director shall 50748
issue a tax incentive qualification certificate, which shall bear 50749
as its date of issuance the thirtieth day of June of the year of 50750
application, and shall state that the applicant is entitled to 50751
receive, for the taxable year that includes the certificate's date 50752
of issuance, the tax incentives provided under section 5709.65 of 50753
the Revised Code with regard to the facility to which the 50754
certificate applies. If an enterprise is issued an initial 50755
certificate, it may apply, on or before the thirtieth day of April 50756
of each succeeding calendar year for which it has been granted an 50757
incentive under an agreement entered pursuant to section 5709.62, 50758
5709.63, or 5709.632 of the Revised Code, for a renewal 50759
certificate. Subsequent to its initial certification, the 50760
enterprise qualifies for up to three successive renewal 50761
certificates if, on or before the last day of the calendar year 50762
immediately preceding that in which the application is made, it 50763
satisfies all the requirements of divisions (A)(1) to (4) of this 50764
section, and neither the zone's designation nor the zone's 50765
certification has been revoked prior to the fifteenth day of June 50766
of the year in which the application is made. The application 50767
shall include an affidavit executed by the applicant verifying 50768

that the enterprise satisfies the requirements of division (A)(2) 50769
of this section. An enterprise with ten or more supervisory 50770
personnel at the facility to which a certificate applies qualifies 50771
for any subsequent renewal certificates only if it meets all of 50772
the foregoing requirements and, in addition, at least ten per cent 50773
of those supervisory personnel are employees who, when first hired 50774
by the enterprise, satisfied at least one of the criteria 50775
specified in divisions (A)(2)(a) to (e) of this section. If the 50776
enterprise qualifies, a renewal certificate shall be issued 50777
bearing as its date of issuance the thirtieth day of June of the 50778
year of application. The director shall send copies of the initial 50779
certificate, and each renewal certificate, by certified mail, to 50780
the enterprise, the tax commissioner, the board of county 50781
commissioners, and the chief executive of the municipal 50782
corporation in which the facility to which the certificate applies 50783
is located. 50784

(B) If the director determines that an enterprise is not 50785
qualified for an initial or renewal tax incentive qualification 50786
certificate, the director shall send notice of this determination, 50787
specifying the reasons for it, by certified mail, to the 50788
applicant, the tax commissioner, the board of county 50789
commissioners, and the chief executive of the municipal 50790
corporation in which the facility to which the certificate would 50791
have applied is located. Within thirty days after receiving such a 50792
notice, an enterprise may request, in writing, a hearing before 50793
the director for the purpose of reviewing the application and the 50794
reasons for the determination. Within sixty days after receiving a 50795
request for a hearing, the director shall afford one and, within 50796
thirty days after the hearing, shall issue a redetermination of 50797
the enterprise's qualification for a certificate. If the 50798
enterprise is found to be qualified, the director shall proceed in 50799
the manner provided under division (A) of this section. If the 50800
enterprise is found to be unqualified, the director shall send 50801

notice of this finding, by certified mail, to the applicant, the 50802
tax commissioner, the board of county commissioners, and the chief 50803
executive of the municipal corporation in which the facility to 50804
which the certificate would have applied is located. The 50805
director's redetermination that an enterprise is unqualified may 50806
be appealed to the board of tax appeals in the manner provided 50807
under section 5717.02 of the Revised Code. 50808

Sec. 5713.10. The county engineer shall appoint the necessary 50809
~~draftsmen~~ draftsperson and fix the salary thereof, subject to the 50810
approval of the board of county commissioners. 50811

The salaries of the assistants shall be paid out of the 50812
county treasury in the same manner as the salaries of other county 50813
officers are paid or may be paid out of the real estate assessment 50814
fund created under section 325.31 of the Revised Code. 50815

Sec. 5717.011. (A) As used in this chapter, "tax 50816
administrator" has the same meaning as in section 718.01 of the 50817
Revised Code. 50818

(B) Appeals from a municipal board of appeal created under 50819
section 718.11 of the Revised Code may be taken by the taxpayer to 50820
the board of tax appeals or may be taken by the taxpayer to a 50821
court of common pleas as otherwise provided by law. If the 50822
taxpayer elects to make its appeal to the board of tax appeals, 50823
the appeal shall be taken by the filing of a notice of appeal with 50824
the board of tax appeals, the municipal board of appeal, and the 50825
tax administrator. The notice of appeal shall be filed within 50826
sixty days after the day the taxpayer receives notice of the 50827
decision issued under section 718.11 of the Revised Code. The 50828
notice of appeal may be filed in person or by certified mail, 50829
express mail, or authorized delivery service as provided in 50830
section 5703.056 of the Revised Code. If the notice of appeal is 50831

filed by certified mail, express mail, or authorized delivery 50832
service as provided in section 5703.056 of the Revised Code, the 50833
date of the United States postmark placed on the sender's receipt 50834
by the postal service or the date of receipt recorded by the 50835
authorized delivery service shall be treated as the date of 50836
filing. The notice of appeal shall have attached thereto and 50837
incorporated therein by reference a true copy of the decision 50838
issued under section 718.11 of the Revised Code to the taxpayer 50839
and shall specify the errors therein complained of, but failure to 50840
attach a copy of such notice and incorporate it by reference in 50841
the notice of appeal does not invalidate the appeal. 50842

(C) Upon the filing of a notice of appeal, the municipal 50843
board of appeal shall certify to the board of tax appeals a 50844
transcript of the record of the proceedings before it, together 50845
with all evidence considered by it in connection therewith. Such 50846
appeals may be heard by the board at its office in Columbus or in 50847
the county where the appellant resides, or it may cause its 50848
examiners to conduct such hearings and to report to it their 50849
findings for affirmation or rejection. The board may order the 50850
appeal to be heard upon the record and the evidence certified to 50851
it by the administrator, but upon the application of any 50852
interested party the board shall order the hearing of additional 50853
evidence, and the board may make such investigation concerning the 50854
appeal as it considers proper. 50855

Sec. 5717.03. (A) A decision of the board of tax appeals on 50856
an appeal filed with it pursuant to section 5717.01, 5717.011, or 50857
5717.02 of the Revised Code shall be entered of record on the 50858
journal together with the date when the order is filed with the 50859
secretary for journalization. 50860

(B) In case of an appeal from a decision of a county board of 50861
revision, the board of tax appeals shall determine the taxable 50862

value of the property whose valuation or assessment by the county 50863
board of revision is complained of, or in the event the complaint 50864
and appeal is against a discriminatory valuation, shall determine 50865
a valuation which shall correct such discrimination, and shall 50866
determine the liability of the property for taxation, if that 50867
question is in issue, and ~~it~~ the board of tax appeals's decision 50868
and the date when it was filed with the secretary for 50869
journalization shall be certified by ~~it~~ the board by certified 50870
mail to all persons who were parties to the appeal before ~~it~~ the 50871
board, to the person in whose name the property is listed, or 50872
sought to be listed, if such person is not a party to the appeal, 50873
to the county auditor of the county in which the property involved 50874
in the appeal is located, and to the tax commissioner. 50875

In correcting a discriminatory valuation, the board of tax 50876
appeals shall increase or decrease the value of the property whose 50877
valuation or assessment by the county board of revision is 50878
complained of by a per cent or amount which will cause such 50879
property to be listed and valued for taxation by an equal and 50880
uniform rule. 50881

(C) In the case of an appeal from a review, redetermination, 50882
or correction of a tax assessment, valuation, determination, 50883
finding, computation, or order of the tax commissioner, the order 50884
of the board of tax appeals and the date of the entry thereof upon 50885
its journal shall be certified by ~~it~~ the board by certified mail 50886
to all persons who were parties to the appeal before ~~it~~ the board, 50887
the person in whose name the property is listed or sought to be 50888
listed, if the decision determines the valuation or liability of 50889
property for taxation and if such person is not a party to the 50890
appeal, the taxpayer or other person to whom notice of the tax 50891
assessment, valuation, determination, finding, computation, or 50892
order, or correction or redetermination thereof, by the tax 50893
commissioner was by law required to be given, the director of 50894

budget and management, if the revenues affected by such decision 50895
would accrue primarily to the state treasury, and the county 50896
auditors of the counties to the undivided general tax funds of 50897
which the revenues affected by such decision would primarily 50898
accrue. 50899

(D) In the case of an appeal from a municipal board of appeal 50900
created under section 718.11 of the Revised Code, the order of the 50901
board of tax appeals and the date of the entry thereof upon the 50902
board's journal shall be certified by the board by certified mail 50903
to all persons who were parties to the appeal before the board. 50904

(E) In the case of all other appeals or applications filed 50905
with and determined by the board ~~its~~, the board's order and the 50906
date when ~~it~~ the order was filed by the secretary for 50907
journalization shall be certified by ~~it~~ the board by certified 50908
mail to the person who is a party to such appeal or application, 50909
to such persons as the law requires, and to such other persons as 50910
the board deems proper. 50911

(F) The orders of the board may affirm, reverse, vacate, 50912
modify, or remand the tax assessments, valuations, determinations, 50913
findings, computations, or orders complained of in the appeals 50914
determined by ~~it~~ the board, and ~~its~~ the board's decision shall 50915
become final and conclusive for the current year unless reversed, 50916
vacated, or modified as provided in section 5717.04 of the Revised 50917
Code. When an order of the board becomes final the tax 50918
commissioner and all officers to whom such decision has been 50919
certified shall make the changes in their tax lists or other 50920
records which the decision requires. 50921

(G) If the board finds that issues not raised on the appeal 50922
are important to a determination of a controversy, ~~it~~ the board 50923
may remand the cause for an administrative determination and the 50924
issuance of a new tax assessment, valuation, determination, 50925
finding, computation, or order, unless the parties stipulate to 50926

the determination of such other issues without remand. An order 50927
remanding the cause is a final order, which may be appealed to the 50928
court of appeals in Franklin county. 50929

Sec. 5727.111. The taxable property of each public utility, 50930
except a railroad company, and of each interexchange 50931
telecommunications company shall be assessed at the following 50932
percentages of true value: 50933

(A)(1) Except as provided in division (A)(2) of this section, 50934
fifty per cent in the case of a rural electric company; 50935

(2) For tax year 2001 and thereafter, fifty per cent in the 50936
case of the taxable transmission and distribution property of a 50937
rural electric company, and twenty-five per cent for all its other 50938
taxable property; 50939

(B) In the case of a telephone or telegraph company, 50940
twenty-five per cent for taxable property first subject to 50941
taxation in this state for tax year 1995 or thereafter, and 50942
~~eighty-eight per cent~~ the following for all other taxable 50943
property: 50944

(1) For tax years prior to 2005, eighty-eight per cent; 50945

(2) For tax year 2005, sixty-seven per cent; 50946

(3) For tax year 2006, forty-six per cent; 50947

(4) For tax year 2007 and thereafter, twenty-five per cent. 50948

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 50949
~~eighty-eight per cent in the case of a natural gas company;~~ 50950

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 50951
per cent in the case of a natural gas company. 50952

(D) Eighty-eight per cent in the case of a pipe-line, 50953
water-works, or heating company; 50954

(E)(1) Except as provided in division (E)(2) or (3) of this 50955

section, one hundred per cent in the case of the taxable 50956
production equipment of an electric company and eighty-eight per 50957
cent for all its other taxable property; 50958

(2) For tax year 2001 and thereafter, eighty-eight per cent 50959
in the case of the taxable transmission and distribution property 50960
of an electric company, and twenty-five per cent for all its other 50961
taxable property; 50962

(3) Property listed and assessed under divisions (B)(1) and 50963
(2) of section 5711.22 of the Revised Code and leased to an 50964
electric company shall continue to be assessed at one hundred per 50965
cent for production equipment and eighty-eight per cent for all 50966
such other taxable property until January 1, 2002. 50967

(F) Twenty-five per cent in the case of an interexchange 50968
telecommunications company; 50969

(G) Twenty-five per cent in the case of a water 50970
transportation company. 50971

Sec. 5727.30. (A) Except as provided in divisions (B) ~~and~~ 50972
(C), and (D) of this section, each public utility, except railroad 50973
companies, shall be subject to an annual excise tax, as provided 50974
by sections 5727.31 to 5727.62 of the Revised Code, for the 50975
privilege of owning property in this state or doing business in 50976
this state during the twelve-month period next succeeding the 50977
period upon which the tax is based. The tax shall be imposed 50978
against each such public utility that, on the first day of such 50979
twelve-month period, owns property in this state or is doing 50980
business in this state, and the lien for the tax, including any 50981
penalties and interest accruing thereon, shall attach on such day 50982
to the property of the public utility in this state. 50983

(B) An electric company's or a rural electric company's gross 50984
receipts received after April 30, 2001, are not subject to the 50985

annual excise tax imposed by this section. 50986

(C) A natural gas company's gross receipts received after 50987
April 30, 2000, are not subject to the annual excise tax imposed 50988
by this section. 50989

(D) A telephone company's gross receipts billed to customers 50990
after June 30, 2004, are not subject to the annual excise tax 50991
imposed by this section. Notwithstanding any other provision of 50992
law, gross receipts billed by a telephone company to customers 50993
prior to July 1, 2004, shall be included in the telephone 50994
company's annual statement filed on or before August 1, 2004, 50995
which shall be the last statement or report filed under section 50996
5727.31 of the Revised Code by a telephone company. A telephone 50997
company shall not deduct from its gross receipts included in that 50998
last statement any receipts it was unable to collect from its 50999
customers for the period of July 1, 2003, to June 30, 2004. 51000

Sec. 5727.32. (A) For the purpose of the tax imposed by 51001
section 5727.30 of the Revised Code, the statement required by 51002
section 5727.31 of the Revised Code shall contain: 51003

(1) The name of the company; 51004

(2) The nature of the company, whether a person, association, 51005
or corporation, and under the laws of what state or country 51006
organized; 51007

(3) The location of its principal office; 51008

(4) The name and post-office address of the president, 51009
secretary, auditor, treasurer, and superintendent or general 51010
manager; 51011

(5) The name and post-office address of the chief officer or 51012
managing agent of the company in this state; 51013

(6) The amount of the excise taxes paid or to be paid with 51014
the reports made during the current calendar year as provided by 51015

section 5727.31 of the Revised Code; 51016

(7) In the case of telegraph ~~and telephone~~ companies: 51017

(a) The gross receipts from all sources, whether messages, 51018
telephone tolls, rentals, or otherwise, for business done within 51019
this state, including all sums earned or charged, whether actually 51020
received or not, for the year ending on the thirtieth day of June, 51021
and the company's proportion of gross receipts for business done 51022
by it within this state in connection with other companies, firms, 51023
corporations, persons, or associations, but excluding all of the 51024
following: 51025

(i) All of the receipts derived wholly from interstate 51026
business or business done for or with the federal government; 51027

(ii) The receipts of amounts billed on behalf of other 51028
entities; 51029

~~(iii) The receipts from sales to other telephone companies 51030
for resale; 51031~~

~~(iv) The receipts from sales to providers of 51032
telecommunications service for resale, receipts from incoming or 51033
outgoing wide area transmission service or wide area transmission 51034
type service, including eight hundred or eight hundred type 51035
service, and receipts from private communications service. 51036~~

As used in this division, ~~"receipts from sales to other 51037
telephone companies for resale" and "receipts from sales to 51038
providers of telecommunications service for resale" include but 51039
are not limited to, receipts of carrier access charges. "Carrier 51040
access charges" means compensation paid to the taxpayer telephone 51041
company by another telephone company or by a provider of 51042
telecommunications service for the use of the taxpayer's 51043
facilities to originate or terminate telephone calls or 51044
telecommunications service. 51045~~

(b) The total gross receipts for such period from business done within this state. 51046
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(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: 51048
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(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: 51051
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(i) Receipts from interstate business or business done for the federal government; 51057
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(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; 51059
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~~(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.~~ 51062
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~~(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:~~ 51067
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~~(I) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the~~ 51074
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~~electricity is generated, and, for at least twenty years prior to 51076
that sale, the facility was used to generate electricity, but it 51077
was not owned in whole or in part during that period by an 51078
electric company. 51079~~

~~(II) At the time the electric company provided the 51080
electricity or other services for which the exclusion is claimed, 51081
the person, or a successor or assign of the person, owned not less 51082
than twenty per cent of the production facility and the rights to 51083
not less than twenty per cent of the production of that facility; 51084
and the person, or a successor or assign of the person, engaged 51085
primarily in a business other than providing electricity to 51086
others. 51087~~

~~(v) Receipts of a combined company derived from operating as 51088
a natural gas company that is subject to the tax imposed by 51089
section 5727.24 of the Revised Code. 51090~~

~~(b) The total gross receipts of the company, for the year 51091
next preceding the first day of May, in this state from business 51092
done within the state. 51093~~

~~(B) The reports required by section 5727.31 of the Revised 51094
Code shall contain: 51095~~

~~(1) The name and principal mailing address of the company; 51096~~

~~(2) The total amount of the gross receipts excise taxes 51097
charged or levied as based upon its last preceding annual 51098
statement filed prior to the first day of January of the year in 51099
which such report is filed; 51100~~

~~(3) The amount of the excise taxes due with the report as 51101
provided by section 5727.31 of the Revised Code. 51102~~

Sec. 5727.33. (A) For the purpose of computing the excise tax 51103
imposed by section 5727.24 or 5727.30 of the Revised Code, the 51104
entire gross receipts actually received from all sources for 51105

business done within this state are taxable gross receipts, 51106
excluding the receipts described in divisions (B), (C), and (D),⁷ 51107
~~and (E)~~ of this section. The gross receipts for the tax year of 51108
each telegraph ~~and telephone~~ company shall be computed for the 51109
period of the first day of July prior to the tax year to the 51110
thirtieth day of June of the tax year. The gross receipts of each 51111
natural gas company, including a combined company's taxable gross 51112
receipts attributed to a natural gas company activity, shall be 51113
computed in the manner required by section 5727.25 of the Revised 51114
Code. The gross receipts for the tax year of any other public 51115
utility subject to section 5727.30 of the Revised Code shall be 51116
computed for the period of the first day of May prior to the tax 51117
year to the thirtieth day of April of the tax year. 51118

(B) In ascertaining and determining the gross receipts of 51119
each public utility subject to this section, the following gross 51120
receipts are excluded: 51121

(1) All receipts derived wholly from interstate business; 51122

(2) All receipts derived wholly from business done for or 51123
with the federal government; 51124

~~(3) All receipts derived wholly from the transmission or 51125
delivery of electricity to or for a rural electric company,
provided that the electricity that has been so transmitted or 51126
delivered is for resale by the rural electric company. This 51127
division does not apply to tax years 2002 and thereafter. 51128
51129~~

~~(4)~~ All receipts from the sale of merchandise; 51130

~~(5)~~⁽⁴⁾ All receipts from sales to other public utilities, 51131
except railroad,⁷ and telegraph, ~~and telephone~~ companies, for 51132
resale, provided the other public utility is subject to the tax 51133
levied by section 5727.24 or 5727.30 of the Revised Code. 51134

~~(C) In ascertaining and determining the gross receipts of a 51135
telephone company, the following gross receipts are excluded: 51136~~

(1) Receipts of amounts billed on behalf of other entities;	51137
(2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;	51138 51139 51140
(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service;	51141 51142 51143
(4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;	51144 51145
(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.	51146 51147 51148
(D) In ascertaining and determining the gross receipts of an electric company, receipts 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 are excluded. 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:	51149 51150 51151 51152 51153 51154 51155 51156
(1) 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 part during that period by an electric company.	51157 51158 51159 51160 51161 51162
(2) 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 a twenty per cent ownership of the production facility and the	51163 51164 51165 51166

~~rights to not less than twenty per cent of the production of that~~ 51167
~~facility.~~ 51168

~~(E)~~(C) In ascertaining and determining the gross receipts of 51169
a natural gas company, receipts billed on behalf of other entities 51170
are excluded. The tax imposed by section 5729.811 of the Revised 51171
Code, along with transportation and billing and collection fees 51172
charged to other entities, shall be included in the gross receipts 51173
of a natural gas company. 51174

~~(F)~~(D) In ascertaining and determining the gross receipts of 51175
a combined company subject to the tax imposed by section 5727.30 51176
of the Revised Code, all receipts derived from operating as a 51177
natural gas company that are subject to the tax imposed by section 51178
5727.24 of the Revised Code are excluded. 51179

~~(G)~~(E) Except as provided in division ~~(H)~~(F) of this section, 51180
the amount ascertained by the commissioner under this section, 51181
less a deduction of twenty-five thousand dollars, shall be the 51182
taxable gross receipts of such companies for business done within 51183
this state for that year. 51184

~~(H)~~(F) The amount ascertained under this section, less the 51185
following deduction, shall be the taxable gross receipts of a 51186
natural gas company or combined company subject to the tax imposed 51187
by section 5727.24 of the Revised Code for business done within 51188
this state: 51189

(1) For a natural gas company that files quarterly returns of 51190
the tax imposed by section 5727.24 of the Revised Code, six 51191
thousand two hundred fifty dollars for each quarterly return; 51192

(2) For a natural gas company that files an annual return of 51193
the tax imposed by section 5727.24 of the Revised Code, 51194
twenty-five thousand dollars for each annual return; 51195

(3) For a combined company, twenty-five thousand dollars on 51196
the annual statement filed under section 5727.31 of the Revised 51197

Code. A combined company shall not be entitled to a deduction in 51198
computing gross receipts subject to the tax imposed by section 51199
5727.24 of the Revised Code. 51200

Sec. 5733.04. As used in this chapter: 51201

(A) "Issued and outstanding shares of stock" applies to 51202
nonprofit corporations, as provided in section 5733.01 of the 51203
Revised Code, and includes, but is not limited to, membership 51204
certificates and other instruments evidencing ownership of an 51205
interest in such nonprofit corporations, and with respect to a 51206
financial institution that does not have capital stock, "issued 51207
and outstanding shares of stock" includes, but is not limited to, 51208
ownership interests of depositors in the capital employed in such 51209
an institution. 51210

(B) "Taxpayer" means a corporation subject to the tax imposed 51211
by section 5733.06 of the Revised Code. 51212

(C) "Resident" means a corporation organized under the laws 51213
of this state. 51214

(D) "Commercial domicile" means the principal place from 51215
which the trade or business of the taxpayer is directed or 51216
managed. 51217

(E) "Taxable year" means the period prescribed by division 51218
(A) of section 5733.031 of the Revised Code upon the net income of 51219
which the value of the taxpayer's issued and outstanding shares of 51220
stock is determined under division (B) of section 5733.05 of the 51221
Revised Code or the period prescribed by division (A) of section 51222
5733.031 of the Revised Code that immediately precedes the date as 51223
of which the total value of the corporation is determined under 51224
division (A) or (C) of section 5733.05 of the Revised Code. 51225

(F) "Tax year" means the calendar year in and for which the 51226
tax imposed by section 5733.06 of the Revised Code is required to 51227

be paid. 51228

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 51229
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(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code. 51231
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(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: 51233
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(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first. 51238
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(b) For losses incurred in taxable years ending on or before 51259
December 31, 1981, the designated carryover period shall be the 51260
five consecutive taxable years after the taxable year in which the 51261
net operating loss occurred. For losses incurred in taxable years 51262
ending on or after January 1, 1982, and beginning before August 6, 51263
1997, the designated carryover period shall be the fifteen 51264
consecutive taxable years after the taxable year in which the net 51265
operating loss occurs. For losses incurred in taxable years 51266
beginning on or after August 6, 1997, the designated carryover 51267
period shall be the twenty consecutive taxable years after the 51268
taxable year in which the net operating loss occurs. 51269

(c) The tax commissioner may require a taxpayer to furnish 51270
any information necessary to support a claim for deduction under 51271
division (I)(1)(a) of this section and no deduction shall be 51272
allowed unless the information is furnished. 51273

(2) Deduct any amount included in net income by application 51274
of section 78 or 951 of the Internal Revenue Code, amounts 51275
received for royalties, technical or other services derived from 51276
sources outside the United States, and dividends received from a 51277
subsidiary, associate, or affiliated corporation that neither 51278
transacts any substantial portion of its business nor regularly 51279
maintains any substantial portion of its assets within the United 51280
States. For purposes of determining net foreign source income 51281
deductible under division (I)(2) of this section, the amount of 51282
gross income from all such sources other than dividend income and 51283
income derived by application of section 78 or 951 of the Internal 51284
Revenue Code shall be reduced by: 51285

(a) The amount of any reimbursed expenses for personal 51286
services performed by employees of the taxpayer for the 51287
subsidiary, associate, or affiliated corporation; 51288

(b) Ten per cent of the amount of royalty income and 51289

technical assistance fees; 51290

(c) Fifteen per cent of the amount of all other income. 51291

The amounts described in divisions (I)(2)(a) to (c) of this 51292
section are deemed to be the expenses attributable to the 51293
production of deductible foreign source income unless the taxpayer 51294
shows, by clear and convincing evidence, less actual expenses, or 51295
the tax commissioner shows, by clear and convincing evidence, more 51296
actual expenses. 51297

(3) Add any loss or deduct any gain resulting from the sale, 51298
exchange, or other disposition of a capital asset, or an asset 51299
described in section 1231 of the Internal Revenue Code, to the 51300
extent that such loss or gain occurred prior to the first taxable 51301
year on which the tax provided for in section 5733.06 of the 51302
Revised Code is computed on the corporation's net income. For 51303
purposes of division (I)(3) of this section, the amount of the 51304
prior loss or gain shall be measured by the difference between the 51305
original cost or other basis of the asset and the fair market 51306
value as of the beginning of the first taxable year on which the 51307
tax provided for in section 5733.06 of the Revised Code is 51308
computed on the corporation's net income. At the option of the 51309
taxpayer, the amount of the prior loss or gain may be a percentage 51310
of the gain or loss, which percentage shall be determined by 51311
multiplying the gain or loss by a fraction, the numerator of which 51312
is the number of months from the acquisition of the asset to the 51313
beginning of the first taxable year on which the fee provided in 51314
section 5733.06 of the Revised Code is computed on the 51315
corporation's net income, and the denominator of which is the 51316
number of months from the acquisition of the asset to the sale, 51317
exchange, or other disposition of the asset. The adjustments 51318
described in this division do not apply to any gain or loss where 51319
the gain or loss is recognized by a qualifying taxpayer, as 51320
defined in section 5733.0510 of the Revised Code, with respect to 51321

a qualifying taxable event, as defined in that section. 51322

(4) Deduct the dividend received deduction provided by 51323
section 243 of the Internal Revenue Code. 51324

(5) Deduct any interest or interest equivalent on public 51325
obligations and purchase obligations to the extent included in 51326
federal taxable income. As used in divisions (I)(5) and (6) of 51327
this section, "public obligations," "purchase obligations," and 51328
"interest or interest equivalent" have the same meanings as in 51329
section 5709.76 of the Revised Code. 51330

(6) Add any loss or deduct any gain resulting from the sale, 51331
exchange, or other disposition of public obligations to the extent 51332
included in federal taxable income. 51333

(7) To the extent not otherwise allowed, deduct any dividends 51334
or distributions received by a taxpayer from a public utility, 51335
excluding an electric company and a combined company, and, for tax 51336
years 2005 and thereafter, a telephone company, if the taxpayer 51337
owns at least eighty per cent of the issued and outstanding common 51338
stock of the public utility. As used in division (I)(7) of this 51339
section, "public utility" means a public utility as defined in 51340
Chapter 5727. of the Revised Code, whether or not the public 51341
utility is doing business in the state. 51342

(8) To the extent not otherwise allowed, deduct any dividends 51343
received by a taxpayer from an insurance company, if the taxpayer 51344
owns at least eighty per cent of the issued and outstanding common 51345
stock of the insurance company. As used in division (I)(8) of this 51346
section, "insurance company" means an insurance company that is 51347
taxable under Chapter 5725. or 5729. of the Revised Code. 51348

(9) Deduct expenditures for modifying existing buildings or 51349
structures to meet American national standards institute standard 51350
A-117.1-1961 (R-1971), as amended; provided, that no deduction 51351
shall be allowed to the extent that such deduction is not 51352

permitted under federal law or under rules of the tax 51353
commissioner. Those deductions as are allowed may be taken over a 51354
period of five years. The tax commissioner shall adopt rules under 51355
Chapter 119. of the Revised Code establishing reasonable 51356
limitations on the extent that expenditures for modifying existing 51357
buildings or structures are attributable to the purpose of making 51358
the buildings or structures accessible to and usable by physically 51359
handicapped persons. 51360

(10) Deduct the amount of wages and salaries, if any, not 51361
otherwise allowable as a deduction but that would have been 51362
allowable as a deduction in computing federal taxable income 51363
before operating loss deduction and special deductions for the 51364
taxable year, had the targeted jobs credit allowed and determined 51365
under sections 38, 51, and 52 of the Internal Revenue Code not 51366
been in effect. 51367

(11) Deduct net interest income on obligations of the United 51368
States and its territories and possessions or of any authority, 51369
commission, or instrumentality of the United States to the extent 51370
the laws of the United States prohibit inclusion of the net 51371
interest for purposes of determining the value of the taxpayer's 51372
issued and outstanding shares of stock under division (B) of 51373
section 5733.05 of the Revised Code. As used in division (I)(11) 51374
of this section, "net interest" means interest net of any expenses 51375
taken on the federal income tax return that would not have been 51376
allowed under section 265 of the Internal Revenue Code if the 51377
interest were exempt from federal income tax. 51378

(12)(a) Except as set forth in division (I)(12)(d) of this 51379
section, to the extent not included in computing the taxpayer's 51380
federal taxable income before operating loss deduction and special 51381
deductions, add gains and deduct losses from direct or indirect 51382
sales, exchanges, or other dispositions, made by a related entity 51383
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 51384

constructive investment in the stock or debt of another entity, 51385
unless the gain or loss has been included in computing the federal 51386
taxable income before operating loss deduction and special 51387
deductions of another taxpayer with a more closely related 51388
investment in the stock or debt of the other entity. The amount of 51389
gain added or loss deducted shall not exceed the product obtained 51390
by multiplying such gain or loss by the taxpayer's proportionate 51391
share, directly, indirectly, beneficially, or constructively, of 51392
the outstanding stock of the related entity immediately prior to 51393
the direct or indirect sale, exchange, or other disposition. 51394

(b) Except as set forth in division (I)(12)(e) of this 51395
section, to the extent not included in computing the taxpayer's 51396
federal taxable income before operating loss deduction and special 51397
deductions, add gains and deduct losses from direct or indirect 51398
sales, exchanges, or other dispositions made by a related entity 51399
who is not a taxpayer, of intangible property other than stock, 51400
securities, and debt, if such property was owned, or used in whole 51401
or in part, at any time prior to or at the time of the sale, 51402
exchange, or disposition by either the taxpayer or by a related 51403
entity that was a taxpayer at any time during the related entity's 51404
ownership or use of such property, unless the gain or loss has 51405
been included in computing the federal taxable income before 51406
operating loss deduction and special deductions of another 51407
taxpayer with a more closely related ownership or use of such 51408
intangible property. The amount of gain added or loss deducted 51409
shall not exceed the product obtained by multiplying such gain or 51410
loss by the taxpayer's proportionate share, directly, indirectly, 51411
beneficially, or constructively, of the outstanding stock of the 51412
related entity immediately prior to the direct or indirect sale, 51413
exchange, or other disposition. 51414

(c) As used in division (I)(12) of this section, "related 51415
entity" means those entities described in divisions (I)(12)(c)(i) 51416

to (iii) of this section: 51417

(i) An individual stockholder, or a member of the 51418
stockholder's family enumerated in section 318 of the Internal 51419
Revenue Code, if the stockholder and the members of the 51420
stockholder's family own, directly, indirectly, beneficially, or 51421
constructively, in the aggregate, at least fifty per cent of the 51422
value of the taxpayer's outstanding stock; 51423

(ii) A stockholder, or a stockholder's partnership, estate, 51424
trust, or corporation, if the stockholder and the stockholder's 51425
partnerships, estates, trusts, and corporations own directly, 51426
indirectly, beneficially, or constructively, in the aggregate, at 51427
least fifty per cent of the value of the taxpayer's outstanding 51428
stock; 51429

(iii) A corporation, or a party related to the corporation in 51430
a manner that would require an attribution of stock from the 51431
corporation to the party or from the party to the corporation 51432
under division (I)(12)(c)(iv) of this section, if the taxpayer 51433
owns, directly, indirectly, beneficially, or constructively, at 51434
least fifty per cent of the value of the corporation's outstanding 51435
stock. 51436

(iv) The attribution rules of section 318 of the Internal 51437
Revenue Code apply for purposes of determining whether the 51438
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 51439
section have been met. 51440

(d) For purposes of the adjustments required by division 51441
(I)(12)(a) of this section, the term "investment in the stock or 51442
debt of another entity" means only those investments where the 51443
taxpayer and the taxpayer's related entities directly, indirectly, 51444
beneficially, or constructively own, in the aggregate, at any time 51445
during the twenty-four month period commencing one year prior to 51446
the direct or indirect sale, exchange, or other disposition of 51447

such investment at least fifty per cent or more of the value of 51448
either the outstanding stock or such debt of such other entity. 51449

(e) For purposes of the adjustments required by division 51450
(I)(12)(b) of this section, the term "related entity" excludes all 51451
of the following: 51452

(i) Foreign corporations as defined in section 7701 of the 51453
Internal Revenue Code; 51454

(ii) Foreign partnerships as defined in section 7701 of the 51455
Internal Revenue Code; 51456

(iii) Corporations, partnerships, estates, and trusts created 51457
or organized in or under the laws of the Commonwealth of Puerto 51458
Rico or any possession of the United States; 51459

(iv) Foreign estates and foreign trusts as defined in section 51460
7701 of the Internal Revenue Code. 51461

The exclusions described in divisions (I)(12)(e)(i) to (iv) 51462
of this section do not apply if the corporation, partnership, 51463
estate, or trust is described in any one of divisions (C)(1) to 51464
(5) of section 5733.042 of the Revised Code. 51465

(f) Nothing in division (I)(12) of this section shall require 51466
or permit a taxpayer to add any gains or deduct any losses 51467
described in divisions (I)(12)(f)(i) and (ii) of this section: 51468

(i) Gains or losses recognized for federal income tax 51469
purposes by an individual, estate, or trust without regard to the 51470
attribution rules described in division (I)(12)(c) of this 51471
section; 51472

(ii) A related entity's gains or losses described in division 51473
(I)(12)(b) of this section if the taxpayer's ownership of or use 51474
of such intangible property was limited to a period not exceeding 51475
nine months and was attributable to a transaction or a series of 51476
transactions executed in accordance with the election or elections 51477

made by the taxpayer or a related entity pursuant to section 338 51478
of the Internal Revenue Code. 51479

(13) Any adjustment required by section 5733.042 of the 51480
Revised Code. 51481

(14) Add any amount claimed as a credit under section 51482
5733.0611 of the Revised Code to the extent that such amount 51483
satisfies either of the following: 51484

(a) It was deducted or excluded from the computation of the 51485
corporation's taxable income before operating loss deduction and 51486
special deductions as required to be reported for the 51487
corporation's taxable year under the Internal Revenue Code; 51488

(b) It resulted in a reduction of the corporation's taxable 51489
income before operating loss deduction and special deductions as 51490
required to be reported for any of the corporation's taxable years 51491
under the Internal Revenue Code. 51492

(15) Deduct the amount contributed by the taxpayer to an 51493
individual development account program established by a county 51494
department of job and family services pursuant to sections 329.11 51495
to 329.14 of the Revised Code for the purpose of matching funds 51496
deposited by program participants. On request of the tax 51497
commissioner, the taxpayer shall provide any information that, in 51498
the tax commissioner's opinion, is necessary to establish the 51499
amount deducted under division (I)(15) of this section. 51500

(16) Any adjustment required by section 5733.0510 of the 51501
Revised Code. 51502

(17)(a) Add five-sixths of the amount of depreciation expense 51503
allowed under subsection (k) of section 168 of the Internal 51504
Revenue Code, including a person's proportionate or distributive 51505
share of the amount of depreciation expense allowed by that 51506
subsection to any pass-through entity in which the person has 51507
direct or indirect ownership. The tax commissioner, under 51508

procedures established by the commissioner, may waive the add-back 51509
related to a pass-through entity if the person owns, directly or 51510
indirectly, less than five per cent of the pass-through entity. 51511

(b) Nothing in division (I)(17) of this section shall be 51512
construed to adjust or modify the adjusted basis of any asset. 51513

(c) To the extent the add-back is attributable to property 51514
generating income or loss allocable under section 5733.051 of the 51515
Revised Code, the add-back shall be allocated to the same location 51516
as the income or loss generated by that property. Otherwise, the 51517
add-back shall be apportioned, subject to division (B)(2)(d) of 51518
section 5733.05 of the Revised Code. 51519

(18)(a) If a person is required to make the add-back under 51520
division (I)(17)(a) of this section for a tax year, the person 51521
shall deduct one-fifth of the amount added back for each of the 51522
succeeding five tax years. 51523

(b) If the amount deducted under division (I)(18)(a) of this 51524
section is attributable to an add-back allocated under division 51525
(I)(17)(c) of this section, the amount deducted shall be allocated 51526
to the same location. Otherwise, the amount shall be apportioned 51527
using the apportionment factors for the taxable year in which the 51528
deduction is taken, subject to division (B)(2)(d) of section 51529
5733.05 of the Revised Code. 51530

(J) Any term used in this chapter has the same meaning as 51531
when used in comparable context in the laws of the United States 51532
relating to federal income taxes unless a different meaning is 51533
clearly required. Any reference in this chapter to the Internal 51534
Revenue Code includes other laws of the United States relating to 51535
federal income taxes. 51536

(K) "Financial institution" has the meaning given by section 51537
5725.01 of the Revised Code but does not include a production 51538
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 51539

(L)(1) A "qualifying holding company" is any corporation 51540
satisfying all of the following requirements: 51541

(a) Subject to divisions (L)(2) and (3) of this section, the 51542
net book value of the corporation's intangible assets is greater 51543
than or equal to ninety per cent of the net book value of all of 51544
its assets and at least fifty per cent of the net book value of 51545
all of its assets represents direct or indirect investments in the 51546
equity of, loans and advances to, and accounts receivable due from 51547
related members; 51548

(b) At least ninety per cent of the corporation's gross 51549
income for the taxable year is attributable to the following: 51550

(i) The maintenance, management, ownership, acquisition, use, 51551
and disposition of its intangible property, its aircraft the use 51552
of which is not subject to regulation under 14 C.F.R. part 121 or 51553
part 135, and any real property described in division (L)(2)(c) of 51554
this section; 51555

(ii) The collection and distribution of income from such 51556
property. 51557

(c) The corporation is not a financial institution on the 51558
last day of the taxable year ending prior to the first day of the 51559
tax year; 51560

(d) The corporation's related members make a good faith and 51561
reasonable effort to make timely and fully the adjustments 51562
required by division (C)(2) of section 5733.05 of the Revised Code 51563
and to pay timely and fully all uncontested taxes, interest, 51564
penalties, and other fees and charges imposed under this chapter; 51565

(e) Subject to division (L)(4) of this section, the 51566
corporation elects to be treated as a qualifying holding company 51567
for the tax year. 51568

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 51569

of this section that does not elect to be a qualifying holding 51570
company is not a qualifying holding company for the purposes of 51571
this chapter. 51572

(2)(a)(i) For purposes of making the ninety per cent 51573
computation under division (L)(1)(a) of this section, the net book 51574
value of the corporation's assets shall not include the net book 51575
value of aircraft or real property described in division 51576
(L)(1)(b)(i) of this section. 51577

(ii) For purposes of making the fifty per cent computation 51578
under division (L)(1)(a) of this section, the net book value of 51579
assets shall include the net book value of aircraft or real 51580
property described in division (L)(1)(b)(i) of this section. 51581

(b)(i) As used in division (L) of this section, "intangible 51582
asset" includes, but is not limited to, the corporation's direct 51583
interest in each pass-through entity only if at all times during 51584
the corporation's taxable year ending prior to the first day of 51585
the tax year the corporation's and the corporation's related 51586
members' combined direct and indirect interests in the capital or 51587
profits of such pass-through entity do not exceed fifty per cent. 51588
If the corporation's interest in the pass-through entity is an 51589
intangible asset for that taxable year, then the distributive 51590
share of any income from the pass-through entity shall be income 51591
from an intangible asset for that taxable year. 51592

(ii) If a corporation's and the corporation's related 51593
members' combined direct and indirect interests in the capital or 51594
profits of a pass-through entity exceed fifty per cent at any time 51595
during the corporation's taxable year ending prior to the first 51596
day of the tax year, "intangible asset" does not include the 51597
corporation's direct interest in the pass-through entity, and the 51598
corporation shall include in its assets its proportionate share of 51599
the assets of any such pass-through entity and shall include in 51600
its gross income its distributive share of the gross income of 51601

such pass-through entity in the same form as was earned by the 51602
pass-through entity. 51603

(iii) A pass-through entity's direct or indirect 51604
proportionate share of any other pass-through entity's assets 51605
shall be included for the purpose of computing the corporation's 51606
proportionate share of the pass-through entity's assets under 51607
division (L)(2)(b)(ii) of this section, and such pass-through 51608
entity's distributive share of any other pass-through entity's 51609
gross income shall be included for purposes of computing the 51610
corporation's distributive share of the pass-through entity's 51611
gross income under division (L)(2)(b)(ii) of this section. 51612

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 51613
(2)(a)(i), and (2)(a)(ii) of this section, real property is 51614
described in division (L)(2)(c) of this section only if all of the 51615
following conditions are present at all times during the taxable 51616
year ending prior to the first day of the tax year: 51617

(i) The real property serves as the headquarters of the 51618
corporation's trade or business, or is the place from which the 51619
corporation's trade or business is principally managed or 51620
directed; 51621

(ii) Not more than ten per cent of the value of the real 51622
property and not more than ten per cent of the square footage of 51623
the building or buildings that are part of the real property is 51624
used, made available, or occupied for the purpose of providing, 51625
acquiring, transferring, selling, or disposing of tangible 51626
property or services in the normal course of business to persons 51627
other than related members, the corporation's employees and their 51628
families, and such related members' employees and their families. 51629

(d) As used in division (L) of this section, "related member" 51630
has the same meaning as in division (A)(6) of section 5733.042 of 51631
the Revised Code without regard to division (B) of that section. 51632

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

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

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

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

(c) The election is not irrevocable;

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

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

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

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

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

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

income tax purposes as an association taxed as a corporation. 51663

(P) "Electric company," ~~and~~ "combined company," and 51664
"telephone company" have the same meanings as in section 5727.01 51665
of the Revised Code. 51666

Sec. 5733.05. As used in this section, "qualified research" 51667
means laboratory research, experimental research, and other 51668
similar types of research; research in developing or improving a 51669
product; or research in developing or improving the means of 51670
producing a product. It does not include market research, consumer 51671
surveys, efficiency surveys, management studies, ordinary testing 51672
or inspection of materials or products for quality control, 51673
historical research, or literary research. "Product" as used in 51674
this paragraph does not include services or intangible property. 51675

The annual report determines the value of the issued and 51676
outstanding shares of stock of the taxpayer, which under division 51677
(A) or divisions (B) and (C) of this section is the base or 51678
measure of the franchise tax liability. Such determination shall 51679
be made as of the date shown by the report to have been the 51680
beginning of the corporation's annual accounting period that 51681
includes the first day of January of the tax year. For the 51682
purposes of this chapter, the value of the issued and outstanding 51683
shares of stock of any corporation that is a financial institution 51684
shall be deemed to be the value as calculated in accordance with 51685
division (A) of this section. For the purposes of this chapter, 51686
the value of the issued and outstanding shares of stock of any 51687
corporation that is not a financial institution shall be deemed to 51688
be the values as calculated in accordance with divisions (B) and 51689
(C) of this section. Except as otherwise required by this section 51690
or section 5733.056 of the Revised Code, the value of a taxpayer's 51691
issued and outstanding shares of stock under division (A) or (C) 51692
of this section does not include any amount that is treated as a 51693

liability under generally accepted accounting principles. 51694

(A) The total value, as shown by the books of the financial 51695
institution, of its capital, surplus, whether earned or unearned, 51696
undivided profits, and reserves shall be determined as prescribed 51697
by section 5733.056 of the Revised Code for tax years 1998 and 51698
thereafter. 51699

(B) The sum of the corporation's net income during the 51700
corporation's taxable year, allocated or apportioned to this state 51701
as prescribed in divisions (B)(1) and (2) of this section, and 51702
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 51703
5733.059, and 5733.0510 of the Revised Code: 51704

(1) The net income allocated to this state as provided by 51705
section 5733.051 of the Revised Code. 51706

(2) The amount of Ohio apportioned net income from sources 51707
other than those allocated under section 5733.051 of the Revised 51708
Code, which shall be determined by multiplying the corporation's 51709
net income by a fraction. The numerator of the fraction is the sum 51710
of the following products: the property factor multiplied by 51711
twenty, the payroll factor multiplied by twenty, and the sales 51712
factor multiplied by sixty. The denominator of the fraction is one 51713
hundred, provided that the denominator shall be reduced by twenty 51714
if the property factor has a denominator of zero, by twenty if the 51715
payroll factor has a denominator of zero, and by sixty if the 51716
sales factor has a denominator of zero. 51717

The property, payroll, and sales factors shall be determined 51718
as follows: 51719

(a) The property factor is a fraction the numerator of which 51720
is the average value of the corporation's real and tangible 51721
personal property owned or rented, and used in the trade or 51722
business in this state during the taxable year, and the 51723
denominator of which is the average value of all the corporation's 51724

real and tangible personal property owned or rented, and used in 51725
the trade or business everywhere during such year. There shall be 51726
excluded from the numerator and denominator of the property factor 51727
the original cost of all of the following property within Ohio: 51728
property with respect to which a "pollution control facility" 51729
certificate has been issued pursuant to section 5709.21 of the 51730
Revised Code; property with respect to which an "industrial water 51731
pollution control certificate" has been issued pursuant to section 51732
6111.31 of the Revised Code; and property used exclusively during 51733
the taxable year for qualified research. 51734

(i) Property owned by the corporation is valued at its 51735
original cost. Property rented by the corporation is valued at 51736
eight times the net annual rental rate. "Net annual rental rate" 51737
means the annual rental rate paid by the corporation less any 51738
annual rental rate received by the corporation from subrentals. 51739

(ii) The average value of property shall be determined by 51740
averaging the values at the beginning and the end of the taxable 51741
year, but the tax commissioner may require the averaging of 51742
monthly values during the taxable year, if reasonably required to 51743
reflect properly the average value of the corporation's property. 51744

(b) The payroll factor is a fraction the numerator of which 51745
is the total amount paid in this state during the taxable year by 51746
the corporation for compensation, and the denominator of which is 51747
the total compensation paid everywhere by the corporation during 51748
such year. There shall be excluded from the numerator and the 51749
denominator of the payroll factor the total compensation paid in 51750
this state to employees who are primarily engaged in qualified 51751
research. 51752

(i) Compensation means any form of remuneration paid to an 51753
employee for personal services. 51754

(ii) Compensation is paid in this state if: (1) the 51755

recipient's service is performed entirely within this state, (2) 51756
the recipient's service is performed both within and without this 51757
state, but the service performed without this state is incidental 51758
to the recipient's service within this state, (3) some of the 51759
service is performed within this state and either the base of 51760
operations, or if there is no base of operations, the place from 51761
which the service is directed or controlled is within this state, 51762
or the base of operations or the place from which the service is 51763
directed or controlled is not in any state in which some part of 51764
the service is performed, but the recipient's residence is in this 51765
state. 51766

(iii) Compensation is paid in this state to any employee of a 51767
common or contract motor carrier corporation, who performs the 51768
employee's regularly assigned duties on a motor vehicle in more 51769
than one state, in the same ratio by which the mileage traveled by 51770
such employee within the state bears to the total mileage traveled 51771
by such employee everywhere during the taxable year. 51772

(c) Except as provided in section 5733.059 of the Revised 51773
Code, the sales factor is a fraction the numerator of which is the 51774
total sales in this state by the corporation during the taxable 51775
year, and the denominator of which is the total sales by the 51776
corporation everywhere during such year. In determining the 51777
numerator and denominator of the sales factor, receipts from the 51778
sale or other disposal of a capital asset or an asset described in 51779
section 1231 of the Internal Revenue Code shall be eliminated. 51780
Also, in determining the numerator and denominator of the sales 51781
factor, in the case of a reporting corporation owning at least 51782
eighty per cent of the issued and outstanding common stock of one 51783
or more insurance companies or public utilities, except an 51784
electric company and a combined company, and, for tax years 2005 51785
and thereafter, a telephone company, or owning at least 51786
twenty-five per cent of the issued and outstanding common stock of 51787

one or more financial institutions, receipts received by the 51788
reporting corporation from such utilities, insurance companies, 51789
and financial institutions shall be eliminated. 51790

For the purpose of this section and section 5733.03 of the 51791
Revised Code, sales of tangible personal property are in this 51792
state where such property is received in this state by the 51793
purchaser. In the case of delivery of tangible personal property 51794
by common carrier or by other means of transportation, the place 51795
at which such property is ultimately received after all 51796
transportation has been completed shall be considered as the place 51797
at which such property is received by the purchaser. Direct 51798
delivery in this state, other than for purposes of transportation, 51799
to a person or firm designated by a purchaser constitutes delivery 51800
to the purchaser in this state, and direct delivery outside this 51801
state to a person or firm designated by a purchaser does not 51802
constitute delivery to the purchaser in this state, regardless of 51803
where title passes or other conditions of sale. 51804

Except as provided in section 5733.059 of the Revised Code, 51805
sales, other than sales of tangible personal property, are in this 51806
state if either: 51807

(i) The income-producing activity is performed solely in this 51808
state; 51809

(ii) The income-producing activity is performed both within 51810
and without this state and a greater proportion of the 51811
income-producing activity is performed within this state than in 51812
any other state, based on costs of performance. 51813

(d) If the allocation and apportionment provisions of 51814
division (B) of this section do not fairly represent the extent of 51815
the taxpayer's business activity in this state, the taxpayer may 51816
request, which request must be in writing and must accompany the 51817
report, timely filed petition for reassessment, or timely filed 51818

amended report, or the tax commissioner may require, in respect to 51819
all or any part of the taxpayer's allocated or apportioned base, 51820
if reasonable, any one or more of the following: 51821

(i) Separate accounting; 51822

(ii) The exclusion of any one or more of the factors; 51823

(iii) The inclusion of one or more additional factors that 51824
will fairly represent the taxpayer's allocated or apportioned base 51825
in this state. 51826

An alternative method will be effective only with approval by 51827
the tax commissioner. 51828

Nothing in this section shall be construed to extend any 51829
statute of limitations set forth in this chapter. 51830

(e) The tax commissioner may adopt rules providing for 51831
alternative allocation and apportionment methods, and alternative 51832
calculations of a corporation's base, that apply to corporations 51833
engaged in telecommunications. 51834

(C)(1) Subject to divisions (C)(2) and (3) of this section, 51835
the total value, as shown on the books of each corporation that is 51836
not a qualified holding company, of the net book value of a 51837
corporation's assets less the net carrying value of its 51838
liabilities, and excluding from the corporation's assets land 51839
devoted exclusively to agricultural use as of the first Monday of 51840
June in the corporation's taxable year as determined by the county 51841
auditor of the county in which the land is located pursuant to 51842
section 5713.31 of the Revised Code. For the purposes of 51843
determining that total value, any reserves shown on the 51844
corporation's books shall be considered liabilities or contra 51845
assets, except for any reserves that are deemed appropriations of 51846
retained earnings under generally accepted accounting principles. 51847

(2)(a) If, on the last day of the taxpayer's taxable year 51848

preceding the tax year, the taxpayer is a related member to a 51849
corporation that elects to be a qualifying holding company for the 51850
tax year beginning after the last day of the taxpayer's taxable 51851
year, or if, on the last day of the taxpayer's taxable year 51852
preceding the tax year, a corporation that elects to be a 51853
qualifying holding company for the tax year beginning after the 51854
last day of the taxpayer's taxable year is a related member to the 51855
taxpayer, then the taxpayer's total value shall be adjusted by the 51856
qualifying amount. Except as otherwise provided under division 51857
(C)(2)(b) of this section, "qualifying amount" means the amount 51858
that, when added to the taxpayer's total value, and when 51859
subtracted from the net carrying value of the taxpayer's 51860
liabilities computed without regard to division (C)(2) of this 51861
section, or when subtracted from the taxpayer's total value and 51862
when added to the net carrying value of the taxpayer's liabilities 51863
computed without regard to division (C)(2) of this section, 51864
results in the taxpayer's debt-to-equity ratio equaling the 51865
debt-to-equity ratio of the qualifying controlled group on the 51866
last day of the taxable year ending prior to the first day of the 51867
tax year computed on a consolidated basis in accordance with 51868
general accepted accounting principles. For the purposes of 51869
division (C)(2)(a) of this section, the corporation's total value, 51870
after the adjustment required by that division, shall not exceed 51871
the net book value of the corporation's assets. 51872

(b)(i) The amount added to the taxpayer's total value and 51873
subtracted from the net carrying value of the taxpayer's 51874
liabilities shall not exceed the amount of the net carrying value 51875
of the taxpayer's liabilities owed to the taxpayer's related 51876
members. 51877

(ii) A liability owed to the taxpayer's related members 51878
includes, but is not limited to, any amount that the corporation 51879
owes to a person that is not a related member if the corporation's 51880

related member or related members in whole or in part guarantee 51881
any portion or all of that amount, or pledge, hypothecate, 51882
mortgage, or carry out any similar transactions to secure any 51883
portion or all of that amount. 51884

(3) The base upon which the tax is levied under division (C) 51885
of section 5733.06 of the Revised Code shall be computed by 51886
multiplying the amount determined under divisions (C)(1) and (2) 51887
of this section by the fraction determined under divisions 51888
(B)(2)(a) to (c) of this section and, if applicable, divisions 51889
(B)(2)(d)(ii) to (iv) of this section but without regard to 51890
section 5733.052 of the Revised Code. 51891

(4) For purposes of division (C) of this section, "related 51892
member" has the same meaning as in division (A)(6) of section 51893
5733.042 of the Revised Code without regard to division (B) of 51894
that section. 51895

Sec. 5733.056. (A) As used in this section: 51896

(1) "Billing address" means the address where any notice, 51897
statement, or bill relating to a customer's account is mailed, as 51898
indicated in the books and records of the taxpayer on the first 51899
day of the taxable year or on such later date in the taxable year 51900
when the customer relationship began. 51901

(2) "Borrower or credit card holder located in this state" 51902
means: 51903

(a) A borrower, other than a credit card holder, that is 51904
engaged in a trade or business and maintains its commercial 51905
domicile in this state; or 51906

(b) A borrower that is not engaged in a trade or business, or 51907
a credit card holder, whose billing address is in this state. 51908

(3) "Branch" means a "domestic branch" as defined in section 51909
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 51910

1813(o), as amended. 51911

(4) "Compensation" means wages, salaries, commissions, and 51912
any other form of remuneration paid to employees for personal 51913
services that are included in such employee's gross income under 51914
the Internal Revenue Code. In the case of employees not subject to 51915
the Internal Revenue Code, such as those employed in foreign 51916
countries, the determination of whether such payments would 51917
constitute gross income to such employees under the Internal 51918
Revenue Code shall be made as though such employees were subject 51919
to the Internal Revenue Code. 51920

(5) "Credit card" means a credit, travel, or entertainment 51921
card. 51922

(6) "Credit card issuer's reimbursement fee" means the fee a 51923
taxpayer receives from a merchant's bank because one of the 51924
persons to whom the taxpayer has issued a credit card has charged 51925
merchandise or services to the credit card. 51926

(7) "Deposits" has the meaning given in section 3 of the 51927
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 51928
as amended. 51929

(8) "Employee" means, with respect to a particular taxpayer, 51930
any individual who under the usual common law rules applicable in 51931
determining the employer-employee relationship, has the status of 51932
an employee of that taxpayer. 51933

(9) "Gross rents" means the actual sum of money or other 51934
consideration payable for the use or possession of property. 51935
"Gross rents" includes: 51936

(a) Any amount payable for the use or possession of real 51937
property or tangible personal property whether designated as a 51938
fixed sum of money or as a percentage of receipts, profits, or 51939
otherwise; 51940

(b) Any amount payable as additional rent or in lieu of rent, 51941
such as interest, taxes, insurance, repairs, or any other amount 51942
required to be paid by the terms of a lease or other arrangement; 51943
and 51944

(c) A proportionate part of the cost of any improvement to 51945
real property made by or on behalf of the taxpayer which reverts 51946
to the owner or lessor upon termination of a lease or other 51947
arrangement. The amount to be included in gross rents is the 51948
amount of amortization or depreciation allowed in computing the 51949
taxable income base for the taxable year. However, where a 51950
building is erected on leased land, by or on behalf of the 51951
taxpayer, the value of the land is determined by multiplying the 51952
gross rent by eight, and the value of the building is determined 51953
in the same manner as if owned by the taxpayer. 51954

(d) The following are not included in the term "gross rents": 51955

(i) Reasonable amounts payable as separate charges for water 51956
and electric service furnished by the lessor; 51957

(ii) Reasonable amounts payable as service charges for 51958
janitorial services furnished by the lessor; 51959

(iii) Reasonable amounts payable for storage, provided such 51960
amounts are payable for space not designated and not under the 51961
control of the taxpayer; and 51962

(iv) That portion of any rental payment which is applicable 51963
to the space subleased from the taxpayer and not used by it. 51964

(10) "Loan" means any extension of credit resulting from 51965
direct negotiations between the taxpayer and its customer, or the 51966
purchase, in whole or in part, of such extension of credit from 51967
another. Loans include debt obligations of subsidiaries, 51968
participations, syndications, and leases treated as loans for 51969
federal income tax purposes. "Loan" does not include: properties 51970

treated as loans under section 595 of the Internal Revenue Code; 51971
futures or forward contracts; options; notional principal 51972
contracts such as swaps; credit card receivables, including 51973
purchased credit card relationships; non-interest bearing balances 51974
due from depositor institutions; cash items in the process of 51975
collection; federal funds sold; securities purchased under 51976
agreements to resell; assets held in a trading account; 51977
securities; interests in a real estate mortgage investment conduit 51978
or other mortgage-backed or asset-backed security; and other 51979
similar items. 51980

(11) "Loan secured by real property" means that fifty per 51981
cent or more of the aggregate value of the collateral used to 51982
secure a loan or other obligation, when valued at fair market 51983
value as of the time the original loan or obligation was incurred, 51984
was real property. 51985

(12) "Merchant discount" means the fee, or negotiated 51986
discount, charged to a merchant by the taxpayer for the privilege 51987
of participating in a program whereby a credit card is accepted in 51988
payment for merchandise or services sold to the card holder. 51989

(13) "Participation" means an extension of credit in which an 51990
undivided ownership interest is held on a pro rata basis in a 51991
single loan or pool of loans and related collateral. In a loan 51992
participation, the credit originator initially makes the loan and 51993
then subsequently resells all or a portion of it to other lenders. 51994
The participation may or may not be known to the borrower. 51995

(14) "Principal base of operations" with respect to 51996
transportation property means the place of more or less permanent 51997
nature from which the property is regularly directed or 51998
controlled. With respect to an employee, the "principal base of 51999
operations" means the place of more or less permanent nature from 52000
which the employee regularly (a) starts work and to which the 52001
employee customarily returns in order to receive instructions from 52002

the employer or (b) communicates with the employee's customers or 52003
other persons or (c) performs any other functions necessary to the 52004
exercise of the trade or profession at some other point or points. 52005

(15) "Qualified institution" means a financial institution 52006
that on or after June 1, 1997: 52007

(a)(i) Has consummated one or more approved transactions with 52008
insured banks with different home states that would qualify under 52009
section 102 of the "Riegle-Neal Interstate Banking and Branching 52010
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 52011

(ii) Is a federal savings association or federal savings bank 52012
that has consummated one or more interstate acquisitions that 52013
result in a financial institution that has branches in more than 52014
one state; or 52015

(iii) Has consummated one or more approved interstate 52016
acquisitions under authority of Title XI of the Revised Code that 52017
result in a financial institution that has branches in more than 52018
one state; and 52019

(b) Has at least nine per cent of its deposits in this state 52020
as of the last day of June prior to the beginning of the tax year. 52021

(16) "Real property owned" and "tangible personal property 52022
owned" mean real and tangible personal property, respectively, on 52023
which the taxpayer may claim depreciation for federal income tax 52024
purposes, or to which the taxpayer holds legal title and on which 52025
no other person may claim depreciation for federal income tax 52026
purposes, or could claim depreciation if subject to federal income 52027
tax. Real and tangible personal property do not include coin, 52028
currency, or property acquired in lieu of or pursuant to a 52029
foreclosure. 52030

(17) "Regular place of business" means an office at which the 52031
taxpayer carries on its business in a regular and systematic 52032
manner and which is continuously maintained, occupied, and used by 52033

employees of the taxpayer. 52034

(18) "State" means a state of the United States, the District 52035
of Columbia, the commonwealth of Puerto Rico, or any territory or 52036
possession of the United States. 52037

(19) "Syndication" means an extension of credit in which two 52038
or more persons fund and each person is at risk only up to a 52039
specified percentage of the total extension of credit or up to a 52040
specified dollar amount. 52041

(20) "Transportation property" means vehicles and vessels 52042
capable of moving under their own power, such as aircraft, trains, 52043
water vessels and motor vehicles, as well as any equipment or 52044
containers attached to such property, such as rolling stock, 52045
barges, trailers, or the like. 52046

(B) The annual financial institution report determines the 52047
value of the issued and outstanding shares of stock of the 52048
taxpayer, and is the base or measure of the franchise tax 52049
liability. Such determination shall be made as of the date shown 52050
by the report to have been the beginning of the financial 52051
institution's annual accounting period that includes the first day 52052
of January of the tax year. For purposes of this section, division 52053
(A) of section 5733.05, and division (D) of section 5733.06 of the 52054
Revised Code, the value of the issued and outstanding shares of 52055
stock of the financial institution shall include the total value, 52056
as shown by the books of the financial institution, of its 52057
capital, surplus, whether earned or unearned, undivided profits, 52058
and reserves, but exclusive of: 52059

(1) Reserves for accounts receivable, depreciation, 52060
depletion, and any other valuation reserves with respect to 52061
specific assets; 52062

(2) Taxes due and payable during the year for which such 52063
report was made; 52064

(3) Voting stock and participation certificates in 52065
corporations chartered pursuant to the "Farm Credit Act of 1971," 52066
85 Stat. 597, 12 U.S.C. 2091, as amended; 52067

(4) Good will, appreciation, and abandoned property as set up 52068
in the annual report of the financial institution, provided a 52069
certified balance sheet of the company is made available upon the 52070
request of the tax commissioner. Such balance sheet shall not be a 52071
part of the public records, but shall be a confidential report for 52072
use of the tax commissioner only. 52073

(5) A portion of the value of the issued and outstanding 52074
shares of stock of such financial institution equal to the amount 52075
obtained by multiplying such value by the quotient obtained by: 52076

(a) Dividing (1) the amount of the financial institution's 52077
assets, as shown on its books, represented by investments in the 52078
capital stock and indebtedness of public utilities, except 52079
electric companies and combined companies, and, for tax years 2005 52080
and thereafter, telephone companies, of which at least eighty per 52081
cent of the utility's issued and outstanding common stock is owned 52082
by the financial institution by (2) the total assets of such 52083
financial institution as shown on its books; 52084

(b) Dividing (1) the amount of the financial institution's 52085
assets, as shown on its books, represented by investments in the 52086
capital stock and indebtedness of insurance companies of which at 52087
least eighty per cent of the insurance company's issued and 52088
outstanding common stock is owned by the financial institution by 52089
(2) the total assets of such financial institution as shown on its 52090
books; 52091

(c) Dividing (1) the amount of the financial institution's 52092
assets, as shown on its books, represented by investments in the 52093
capital stock and indebtedness of other financial institutions of 52094
which at least twenty-five per cent of the other financial 52095

institution's issued and outstanding common stock is owned by the 52096
financial institution by (2) the total assets of the financial 52097
institution as shown on its books. Division (B)(5)(c) of this 52098
section applies only with respect to such other financial 52099
institutions that for the tax year immediately following the 52100
taxpayer's taxable year will pay the tax imposed by division (D) 52101
of section 5733.06 of the Revised Code. 52102

(6) Land that has been determined pursuant to section 5713.31 52103
of the Revised Code by the county auditor of the county in which 52104
the land is located to be devoted exclusively to agricultural use 52105
as of the first Monday of June in the financial institution's 52106
taxable year. 52107

(7) Property within this state used exclusively during the 52108
taxable year for qualified research as defined in section 5733.05 52109
of the Revised Code. 52110

(C) The base upon which the tax levied under division (D) of 52111
section 5733.06 of the Revised Code shall be computed by 52112
multiplying the value of a financial institution's issued and 52113
outstanding shares of stock as determined in division (B) of this 52114
section by a fraction. The numerator of the fraction is the sum of 52115
the following: the property factor multiplied by fifteen, the 52116
payroll factor multiplied by fifteen, and the sales factor 52117
multiplied by seventy. The denominator of the fraction is one 52118
hundred, provided that the denominator shall be reduced by fifteen 52119
if the property factor has a denominator of zero, by fifteen if 52120
the payroll factor has a denominator of zero, and by seventy if 52121
the sales factor has a denominator of zero. 52122

(D) A financial institution shall calculate the property 52123
factor as follows: 52124

(1) The property factor is a fraction, the numerator of which 52125
is the average value of real property and tangible personal 52126

property rented to the taxpayer that is located or used within 52127
this state during the taxable year, the average value of real and 52128
tangible personal property owned by the taxpayer that is located 52129
or used within this state during the taxable year, and the average 52130
value of the taxpayer's loans and credit card receivables that are 52131
located within this state during the taxable year; and the 52132
denominator of which is the average value of all such property 52133
located or used within and without this state during the taxable 52134
year. 52135

(2)(a) The value of real property and tangible personal 52136
property owned by the taxpayer is the original cost or other basis 52137
of such property for federal income tax purposes without regard to 52138
depletion, depreciation, or amortization. 52139

(b) Loans are valued at their outstanding principal balance, 52140
without regard to any reserve for bad debts. If a loan is 52141
charged-off in whole or in part for federal income tax purposes, 52142
the portion of the loan charged-off is not outstanding. A 52143
specifically allocated reserve established pursuant to financial 52144
accounting guidelines which is treated as charged-off for federal 52145
income tax purposes shall be treated as charged-off for purposes 52146
of this section. 52147

(c) Credit card receivables are valued at their outstanding 52148
principal balance, without regard to any reserve for bad debts. If 52149
a credit card receivable is charged-off in whole or in part for 52150
federal income tax purposes, the portion of the receivable 52151
charged-off is not outstanding. 52152

(3) The average value of property owned by the taxpayer is 52153
computed on an annual basis by adding the value of the property on 52154
the first day of the taxable year and the value on the last day of 52155
the taxable year and dividing the sum by two. If averaging on this 52156
basis does not properly reflect average value, the tax 52157
commissioner may require averaging on a more frequent basis. The 52158

taxpayer may elect to average on a more frequent basis. When 52159
averaging on a more frequent basis is required by the tax 52160
commissioner or is elected by the taxpayer, the same method of 52161
valuation must be used consistently by the taxpayer with respect 52162
to property within and without this state and on all subsequent 52163
returns unless the taxpayer receives prior permission from the tax 52164
commissioner or the tax commissioner requires a different method 52165
of determining value. 52166

(4)(a) The average value of real property and tangible 52167
personal property that the taxpayer has rented from another and is 52168
not treated as property owned by the taxpayer for federal income 52169
tax purposes, shall be determined annually by multiplying the 52170
gross rents payable during the taxable year by eight. 52171

(b) Where the use of the general method described in division 52172
(D)(4)(a) of this section results in inaccurate valuations of 52173
rented property, any other method which properly reflects the 52174
value may be adopted by the tax commissioner or by the taxpayer 52175
when approved in writing by the tax commissioner. Once approved, 52176
such other method of valuation must be used on all subsequent 52177
returns unless the taxpayer receives prior approval from the tax 52178
commissioner or the tax commissioner requires a different method 52179
of valuation. 52180

(5)(a) Except as described in division (D)(5)(b) of this 52181
section, real property and tangible personal property owned by or 52182
rented to the taxpayer is considered to be located within this 52183
state if it is physically located, situated, or used within this 52184
state. 52185

(b) Transportation property is included in the numerator of 52186
the property factor to the extent that the property is used in 52187
this state. The extent an aircraft will be deemed to be used in 52188
this state and the amount of value that is to be included in the 52189
numerator of this state's property factor is determined by 52190

52191 multiplying the average value of the aircraft by a fraction, the
52192 numerator of which is the number of landings of the aircraft in
52193 this state and the denominator of which is the total number of
52194 landings of the aircraft everywhere. If the extent of the use of
52195 any transportation property within this state cannot be
52196 determined, then the property will be deemed to be used wholly in
52197 the state in which the property has its principal base of
52198 operations. A motor vehicle will be deemed to be used wholly in
52199 the state in which it is registered.

52200 (6)(a)(i) A loan, other than a loan or advance described in
52201 division (D)(6)(d) of this section, is considered to be located
52202 within this state if it is properly assigned to a regular place of
52203 business of the taxpayer within this state.

52204 (ii) A loan is properly assigned to the regular place of
52205 business with which it has a preponderance of substantive
52206 contacts. A loan assigned by the taxpayer to a regular place of
52207 business without the state shall be presumed to have been properly
52208 assigned if:

52209 (I) The taxpayer has assigned, in the regular course of its
52210 business, such loan on its records to a regular place of business
52211 consistent with federal or state regulatory requirements;

52212 (II) Such assignment on its records is based upon substantive
52213 contacts of the load to such regular place of business; and

52214 (III) The taxpayer uses the records reflecting assignment of
52215 loans for the filing of all state and local tax returns for which
52216 an assignment of loans to a regular place of business is required.

52217 (iii) The presumption of proper assignment of a loan provided
52218 in division (D)(6)(a)(ii) of this section may be rebutted upon a
52219 showing by the tax commissioner, supported by a preponderance of
52220 the evidence, that the preponderance of substantive contacts
52221 regarding such loan did not occur at the regular place of business

to which it was assigned on the taxpayer's records. When such 52222
presumption has been rebutted, the loan shall then be located 52223
within this state if (1) the taxpayer had a regular place of 52224
business within this state at the time the loan was made; and (2) 52225
the taxpayer fails to show, by a preponderance of the evidence, 52226
that the preponderance of substantive contacts regarding such loan 52227
did not occur within this state. 52228

(b) In the case of a loan which is assigned by the taxpayer 52229
to a place without this state which is not a regular place of 52230
business, it shall be presumed, subject to rebuttal by the 52231
taxpayer on a showing supported by the preponderance of evidence, 52232
that the preponderance of substantive contacts regarding the loan 52233
occurred within this state if, at the time the loan was made the 52234
taxpayer's commercial domicile was within this state. 52235

(c) To determine the state in which the preponderance of 52236
substantive contacts relating to a loan have occurred, the facts 52237
and circumstances regarding the loan at issue shall be reviewed on 52238
a case-by-case basis and consideration shall be given to such 52239
activities as the solicitation, investigation, negotiation, 52240
approval, and administration of the loan. The terms 52241
"solicitation," "investigation," "negotiation," "approval," and 52242
"administration" are defined as follows: 52243

(i) "Solicitation" is either active or passive. Active 52244
solicitation occurs when an employee of the taxpayer initiates the 52245
contact with the customer. Such activity is located at the regular 52246
place of business which the taxpayer's employee is regularly 52247
connected with or working out of, regardless of where the services 52248
of such employee were actually performed. Passive solicitation 52249
occurs when the customer initiates the contact with the taxpayer. 52250
If the customer's initial contact was not at a regular place of 52251
business of the taxpayer, the regular place of business, if any, 52252
where the passive solicitation occurred is determined by the facts 52253

in each case. 52254

(ii) "Investigation" is the procedure whereby employees of 52255
the taxpayer determine the creditworthiness of the customer as 52256
well as the degree of risk involved in making a particular 52257
agreement. Such activity is located at the regular place of 52258
business which the taxpayer's employees are regularly connected 52259
with or working out of, regardless of where the services of such 52260
employees were actually performed. 52261

(iii) Negotiation is the procedure whereby employees of the 52262
taxpayer and its customer determine the terms of the agreement, 52263
such as the amount, duration, interest rate, frequency of 52264
repayment, currency denomination, and security required. Such 52265
activity is located at the regular place of business to which the 52266
taxpayer's employees are regularly connected or working from, 52267
regardless of where the services of such employees were actually 52268
performed. 52269

(iv) "Approval" is the procedure whereby employees or the 52270
board of directors of the taxpayer make the final determination 52271
whether to enter into the agreement. Such activity is located at 52272
the regular place of business to which the taxpayer's employees 52273
are regularly connected or working from, regardless of where the 52274
services of such employees were actually performed. If the board 52275
of directors makes the final determination, such activity is 52276
located at the commercial domicile of the taxpayer. 52277

(v) "Administration" is the process of managing the account. 52278
This process includes bookkeeping, collecting the payments, 52279
corresponding with the customer, reporting to management regarding 52280
the status of the agreement, and proceeding against the borrower 52281
or the security interest if the borrower is in default. Such 52282
activity is located at the regular place of business that oversees 52283
this activity. 52284

(d) A loan or advance to a subsidiary corporation at least 52285
fifty-one per cent of whose common stock is owned by the financial 52286
institution shall be allocated in and out of the state by the 52287
application of a ratio whose numerator is the sum of the net book 52288
value of the subsidiary's real property owned in this state and 52289
the subsidiary's tangible personal property owned in this state 52290
and whose denominator is the sum of the subsidiary's real property 52291
owned wherever located and the subsidiary's tangible personal 52292
property owned wherever located. For purposes of calculating this 52293
ratio, the taxpayer shall determine net book value in accordance 52294
with generally accepted accounting principles. If the subsidiary 52295
corporation owns at least fifty-one per cent of the common stock 52296
of another corporation, the ratio shall be calculated by including 52297
the other corporation's real property and tangible personal 52298
property. The calculation of the ratio applies with respect to all 52299
lower-tiered subsidiaries, provided that the immediate parent 52300
corporation of the subsidiary owns at least fifty-one per cent of 52301
the common stock of that subsidiary. 52302

(7) For purposes of determining the location of credit card 52303
receivables, credit card receivables shall be treated as loans and 52304
shall be subject to division (D)(6) of this section. 52305

(8) A loan that has been properly assigned to a state shall, 52306
absent any change of material fact, remain assigned to that state 52307
for the length of the original term of the loan. Thereafter, the 52308
loan may be properly assigned to another state if the loan has a 52309
preponderance of substantive contact to a regular place of 52310
business there. 52311

(E) A financial institution shall calculate the payroll 52312
factor as follows: 52313

(1) The payroll factor is a fraction, the numerator of which 52314
is the total amount paid in this state during the taxable year by 52315

the taxpayer for compensation, and the denominator of which is the 52316
total compensation paid both within and without this state during 52317
the taxable year. 52318

(2) Compensation is paid in this state if any one of the 52319
following tests, applied consecutively, is met: 52320

(a) The employee's services are performed entirely within 52321
this state. 52322

(b) The employee's services are performed both within and 52323
without this state, but the service performed without this state 52324
is incidental to the employee's service within this state. The 52325
term "incidental" means any service which is temporary or 52326
transitory in nature, or which is rendered in connection with an 52327
isolated transaction. 52328

(c) The employee's services are performed both within and 52329
without this state, and: 52330

(i) The employee's principal base of operations is within 52331
this state; or 52332

(ii) There is no principal base of operations in any state in 52333
which some part of the services are performed, but the place from 52334
which the services are directed or controlled is in this state; or 52335

(iii) The principal base of operations and the place from 52336
which the services are directed or controlled are not in any state 52337
in which some part of the service is performed but the employee's 52338
residence is in this state. 52339

(F) A financial institution shall calculate the sales factor 52340
as follows: 52341

(1) The sales factor is a fraction, the numerator of which is 52342
the receipts of the taxpayer in this state during the taxable year 52343
and the denominator of which is the receipts of the taxpayer 52344
within and without this state during the taxable year. The method 52345

of calculating receipts for purposes of the denominator is the 52346
same as the method used in determining receipts for purposes of 52347
the numerator. 52348

(2) The numerator of the sales factor includes receipts from 52349
the lease or rental of real property owned by the taxpayer if the 52350
property is located within this state, or receipts from the 52351
sublease of real property if the property is located within this 52352
state. 52353

(3)(a) Except as described in division (F)(3)(b) of this 52354
section the numerator of the sales factor includes receipts from 52355
the lease or rental of tangible personal property owned by the 52356
taxpayer if the property is located within this state when it is 52357
first placed in service by the lessee. 52358

(b) Receipts from the lease or rental of transportation 52359
property owned by the taxpayer are included in the numerator of 52360
the sales factor to the extent that the property is used in this 52361
state. The extent an aircraft will be deemed to be used in this 52362
state and the amount of receipts that is to be included in the 52363
numerator of this state's sales factor is determined by 52364
multiplying all the receipts from the lease or rental of the 52365
aircraft by a fraction, the numerator of which is the number of 52366
landings of the aircraft in this state and the denominator of 52367
which is the total number of landings of the aircraft. If the 52368
extent of the use of any transportation property within this state 52369
cannot be determined, then the property will be deemed to be used 52370
wholly in the state in which the property has its principal base 52371
of operations. A motor vehicle will be deemed to be used wholly in 52372
the state in which it is registered. 52373

(4)(a) The numerator of the sales factor includes interest 52374
and fees or penalties in the nature of interest from loans secured 52375
by real property if the property is located within this state. If 52376
the property is located both within this state and one or more 52377

other states, the receipts described in this paragraph are 52378
included in the numerator of the sales factor if more than fifty 52379
per cent of the fair market value of the real property is located 52380
within this state. If more than fifty per cent of the fair market 52381
value of the real property is not located within any one state, 52382
then the receipts described in this paragraph shall be included in 52383
the numerator of the sales factor if the borrower is located in 52384
this state. 52385

(b) The determination of whether the real property securing a 52386
loan is located within this state shall be made as of the time the 52387
original agreement was made and any and all subsequent 52388
substitutions of collateral shall be disregarded. 52389

(5) The numerator of the sales factor includes interest and 52390
fees or penalties in the nature of interest from loans not secured 52391
by real property if the borrower is located in this state. 52392

(6) The numerator of the sales factor includes net gains from 52393
the sale of loans. Net gains from the sale of loans includes 52394
income recorded under the coupon stripping rules of section 1286 52395
of the Internal Revenue Code. 52396

(a) The amount of net gains, but not less than zero, from the 52397
sale of loans secured by real property included in the numerator 52398
is determined by multiplying such net gains by a fraction the 52399
numerator of which is the amount included in the numerator of the 52400
sales factor pursuant to division (F)(4) of this section and the 52401
denominator of which is the total amount of interest and fees or 52402
penalties in the nature of interest from loans secured by real 52403
property. 52404

(b) The amount of net gains, but not less than zero, from the 52405
sale of loans not secured by real property included in the 52406
numerator is determined by multiplying such net gains by a 52407
fraction the numerator of which is the amount included in the 52408

numerator of the sales factor pursuant to division (F)(5) of this 52409
section and the denominator of which is the total amount of 52410
interest and fees or penalties in the nature of interest from 52411
loans not secured by real property. 52412

(7) The numerator of the sales factor includes interest and 52413
fees or penalties in the nature of interest from credit card 52414
receivables and receipts from fees charged to card holders, such 52415
as annual fees, if the billing address of the card holder is in 52416
this state. 52417

(8) The numerator of the sales factor includes net gains, but 52418
not less than zero, from the sale of credit card receivables 52419
multiplied by a fraction, the numerator of which is the amount 52420
included in the numerator of the sales factor pursuant to division 52421
(F)(7) of this section and the denominator of which is the 52422
taxpayer's total amount of interest and fees or penalties in the 52423
nature of interest from credit card receivables and fees charged 52424
to card holders. 52425

(9) The numerator of the sales factor includes all credit 52426
card issuer's reimbursement fees multiplied by a fraction, the 52427
numerator of which is the amount included in the numerator of the 52428
sales factor pursuant to division (F)(7) of this section and the 52429
denominator of which is the taxpayer's total amount of interest 52430
and fees or penalties in the nature of interest from credit card 52431
receivables and fees charged to card holders. 52432

(10) The numerator of the sales factor includes receipts from 52433
merchant discount if the commercial domicile of the merchant is in 52434
this state. Such receipts shall be computed net of any card holder 52435
charge backs, but shall not be reduced by any interchange 52436
transaction fees or by any issuer's reimbursement fees paid to 52437
another for charges made by its card holders. 52438

(11)(a)(i) The numerator of the sales factor includes loan 52439

servicing fees derived from loans secured by real property 52440
multiplied by a fraction the numerator of which is the amount 52441
included in the numerator of the sales factor pursuant to division 52442
(F)(4) of this section and the denominator of which is the total 52443
amount of interest and fees or penalties in the nature of interest 52444
from loans secured by real property. 52445

(ii) The numerator of the sales factor includes loan 52446
servicing fees derived from loans not secured by real property 52447
multiplied by a fraction the numerator of which is the amount 52448
included in the numerator of the sales factor pursuant to division 52449
(F)(5) of this section and the denominator of which is the total 52450
amount of interest and fees or penalties in the nature of interest 52451
from loans not secured by real property. 52452

(b) In circumstances in which the taxpayer receives loan 52453
servicing fees for servicing either the secured or the unsecured 52454
loans of another, the numerator of the sales factor shall include 52455
such fees if the borrower is located in this state. 52456

(12) The numerator of the sales factor includes receipts from 52457
services not otherwise apportioned under this section if the 52458
service is performed in this state. If the service is performed 52459
both within and without this state, the numerator of the sales 52460
factor includes receipts from services not otherwise apportioned 52461
under this section, if a greater proportion of the income 52462
producing activity is performed in this state based on cost of 52463
performance. 52464

(13)(a) Interest, dividends, net gains, but not less than 52465
zero, and other income from investment assets and activities and 52466
from trading assets and activities shall be included in the sales 52467
factor. Investment assets and activities and trading assets and 52468
activities include but are not limited to: investment securities; 52469
trading account assets; federal funds; securities purchased and 52470
sold under agreements to resell or repurchase; options; futures 52471

contracts; forward contracts; notional principal contracts such as 52472
swaps; equities; and foreign currency transactions. With respect 52473
to the investment and trading assets and activities described in 52474
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 52475
shall include the amounts described in such divisions. 52476

(i) The sales factor shall include the amount by which 52477
interest from federal funds sold and securities purchased under 52478
resale agreements exceeds interest expense on federal funds 52479
purchased and securities sold under repurchase agreements. 52480

(ii) The sales factor shall include the amount by which 52481
interest, dividends, gains, and other income from trading assets 52482
and activities, including, but not limited to, assets and 52483
activities in the matched book, in the arbitrage book, and foreign 52484
currency transactions, exceed amounts paid in lieu of interest, 52485
amounts paid in lieu of dividends, and losses from such assets and 52486
activities. 52487

(b) The numerator of the sales factor includes interest, 52488
dividends, net gains, but not less than zero, and other income 52489
from investment assets and activities and from trading assets and 52490
activities described in division (F)(13)(a) of this section that 52491
are attributable to this state. 52492

(i) The amount of interest, other than interest described in 52493
division (F)(13)(b)(iv) of this section, dividends, other than 52494
dividends described in that division, net gains, but not less than 52495
zero, and other income from investment assets and activities in 52496
the investment account to be attributed to this state and included 52497
in the numerator is determined by multiplying all such income from 52498
such assets and activities by a fraction, the numerator of which 52499
is the average value of such assets which are properly assigned to 52500
a regular place of business of the taxpayer within this state and 52501
the denominator of which is the average value of all such assets. 52502

(ii) The amount of interest from federal funds sold and 52503
purchased and from securities purchased under resale agreements 52504
and securities sold under repurchase agreements attributable to 52505
this state and included in the numerator is determined by 52506
multiplying the amount described in division (F)(13)(a)(i) of this 52507
section from such funds and such securities by a fraction, the 52508
numerator of which is the average value of federal funds sold and 52509
securities purchased under agreements to resell which are properly 52510
assigned to a regular place of business of the taxpayer within 52511
this state and the denominator of which is the average value of 52512
all such funds and such securities. 52513

(iii) The amount of interest, dividends, gains, and other 52514
income from trading assets and activities, including but not 52515
limited to assets and activities in the matched book, in the 52516
arbitrage book, and foreign currency transaction, but excluding 52517
amounts described in division (F)(13)(b)(i) or (ii) of this 52518
section, attributable to this state and included in the numerator 52519
is determined by multiplying the amount described in division 52520
(F)(13)(a)(ii) of this section by a fraction, the numerator of 52521
which is the average value of such trading assets which are 52522
properly assigned to a regular place of business of the taxpayer 52523
within this state and the denominator of which is the average 52524
value of all such assets. 52525

(iv) The amount of dividends received on the capital stock 52526
of, and the amount of interest received from loans and advances 52527
to, subsidiary corporations at least fifty-one per cent of whose 52528
common stock is owned by the reporting financial institution shall 52529
be allocated in and out of this state by the application of a 52530
ratio whose numerator is the sum of the net book value of the 52531
payor's real property owned in this state and the payor's tangible 52532
personal property owned in this state and whose denominator is the 52533
sum of the net book value of the payor's real property owned 52534

wherever located and the payor's tangible personal property owned 52535
wherever located. For purposes of calculating this ratio, the 52536
taxpayer shall determine net book value in accordance with 52537
generally accepted accounting principles. 52538

(v) For purposes of this division, average value shall be 52539
determined using the rules for determining the average value of 52540
tangible personal property set forth in division (D)(2) and (3) of 52541
this section. 52542

(c) In lieu of using the method set forth in division 52543
(F)(13)(b) of this section, the taxpayer may elect, or the tax 52544
commissioner may require in order to fairly represent the business 52545
activity of the taxpayer in this state, the use of the method set 52546
forth in division (F)(13)(c) of this section. 52547

(i) The amount of interest, other than interest described in 52548
division (F)(13)(b)(iv) of this section, dividends, other than 52549
dividends described in that division, net gains, but not less than 52550
zero, and other income from investment assets and activities in 52551
the investment account to be attributed to this state and included 52552
in the numerator is determined by multiplying all such income from 52553
such assets and activities by a fraction, the numerator of which 52554
is the gross income from such assets and activities which are 52555
properly assigned to a regular place of business of the taxpayer 52556
within this state, and the denominator of which is the gross 52557
income from all such assets and activities. 52558

(ii) The amount of interest from federal funds sold and 52559
purchased and from securities purchased under resale agreements 52560
and securities sold under repurchase agreements attributable to 52561
this state and included in the numerator is determined by 52562
multiplying the amount described in division (F)(13)(a)(i) of this 52563
section from such funds and such securities by a fraction, the 52564
numerator of which is the gross income from such funds and such 52565
securities which are properly assigned to a regular place of 52566

business of the taxpayer within this state and the denominator of 52567
which is the gross income from all such funds and such securities. 52568

(iii) The amount of interest, dividends, gains, and other 52569
income from trading assets and activities, including, but not 52570
limited to, assets and activities in the matched book, in the 52571
arbitrage book, and foreign currency transactions, but excluding 52572
amounts described in division (F)(13)(a)(i) or (ii) of this 52573
section, attributable to this state and included in the numerator, 52574
is determined by multiplying the amount described in division 52575
(F)(13)(a)(ii) of this section by a fraction, the numerator of 52576
which is the gross income from such trading assets and activities 52577
which are properly assigned to a regular place of business of the 52578
taxpayer within this state and the denominator of which is the 52579
gross income from all such assets and activities. 52580

(iv) The amount of dividends received on the capital stock 52581
of, and the amount of interest received from loans and advances 52582
to, subsidiary corporations at least fifty-one per cent of whose 52583
common stock is owned by the reporting financial institution shall 52584
be allocated in and out of this state by the application of a 52585
ratio whose numerator is the sum of the net book value of the 52586
payor's real property owned in this state and the payor's tangible 52587
personal property owned in this state and whose denominator is the 52588
sum of the payor's real property owned wherever located and the 52589
payor's tangible personal property owned wherever located. For 52590
purposes of calculating this ratio, the taxpayer shall determine 52591
net book value in accordance with generally accepted accounting 52592
principles. 52593

(d) If the taxpayer elects or is required by the tax 52594
commissioner to use the method set forth in division (F)(13)(c) of 52595
this section, it shall use this method on all subsequent returns 52596
unless the taxpayer receives prior permission from the tax 52597
commissioner to use or the tax commissioner requires a different 52598

method. 52599

(e) The taxpayer shall have the burden of proving that an 52600
investment asset or activity or trading asset or activity was 52601
properly assigned to a regular place of business outside of this 52602
state by demonstrating that the day-to-day decisions regarding the 52603
asset or activity occurred at a regular place of business outside 52604
this state. Where the day-to-day decisions regarding an investment 52605
asset or activity or trading asset or activity occur at more than 52606
one regular place of business and one such regular place of 52607
business is in this state and one such regular place of business 52608
is outside this state such asset or activity shall be considered 52609
to be located at the regular place of business of the taxpayer 52610
where the investment or trading policies or guidelines with 52611
respect to the asset or activity are established. Unless the 52612
taxpayer demonstrates to the contrary, such policies and 52613
guidelines shall be presumed to be established at the commercial 52614
domicile of the taxpayer. 52615

(14) The numerator of the sales factor includes all other 52616
receipts if either: 52617

(a) The income-producing activity is performed solely in this 52618
state; or 52619

(b) The income-producing activity is performed both within 52620
and without this state and a greater proportion of the 52621
income-producing activity is performed within this state than in 52622
any other state, based on costs of performance. 52623

(G) A qualified institution may calculate the base upon which 52624
the fee provided for in division (D) of section 5733.06 of the 52625
Revised Code is determined for each tax year by multiplying the 52626
value of its issued and outstanding shares of stock determined 52627
under division (B) of this section by a single deposits fraction 52628
whose numerator is the deposits assigned to branches in this state 52629

and whose denominator is the deposits assigned to branches 52630
everywhere. Deposits shall be assigned to branches in the same 52631
manner in which the assignment is made for regulatory purposes. If 52632
the base calculated under this division is less than the base 52633
calculated under division (C) of this section, then the qualifying 52634
institution may elect to substitute the base calculated under this 52635
division for the base calculated under division (C) of this 52636
section. Such election may be made annually for each tax year on 52637
the corporate report. The election need not accompany the report; 52638
rather, the election may accompany a subsequently filed but timely 52639
application for refund, a subsequently filed but timely amended 52640
report, or a subsequently filed but timely petition for 52641
reassessment. The election is not irrevocable and it applies only 52642
to the specified tax year. Nothing in this division shall be 52643
construed to extend any statute of limitations set forth in this 52644
chapter. 52645

(H) If the apportionment provisions of this section do not 52646
fairly represent the extent of the taxpayer's business activity in 52647
this state, the taxpayer may petition for or the tax commissioner 52648
may require, in respect to all or any part of the taxpayer's 52649
business activity, if reasonable: 52650

(1) Separate accounting; 52651

(2) The exclusion of any one or more of the factors; 52652

(3) The inclusion of one or more additional factors which 52653
will fairly represent the taxpayer's business activity in this 52654
state; or 52655

(4) The employment of any other method to effectuate an 52656
equitable allocation and apportionment of the taxpayer's value. 52657

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions 52658
(A)(2) and (3) of this section, an incorporated company, whether 52659

foreign or domestic, owning and operating a public utility in this 52660
state, and required by law to file reports with the tax 52661
commissioner and to pay an excise tax upon its gross receipts, and 52662
insurance, fraternal, beneficial, bond investment, and other 52663
corporations required by law to file annual reports with the 52664
superintendent of insurance and dealers in intangibles, the shares 52665
of which are, or the capital or ownership in capital employed by 52666
such dealer is, subject to the taxes imposed by section 5707.03 of 52667
the Revised Code, shall not be subject to this chapter, except for 52668
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 52669
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 52670
5747.453 of the Revised Code. However, for reports required to be 52671
filed under section 5725.14 of the Revised Code in 2003 and 52672
thereafter, nothing in this section shall be construed to exempt 52673
the property of any dealer in intangibles under section 5725.13 of 52674
the Revised Code from the tax imposed under section 5707.03 of the 52675
Revised Code. ~~An~~ 52676

(2) An electric company subject to the filing requirements of 52677
section 5727.08 of the Revised Code or otherwise having nexus with 52678
or in this state under the Constitution of the United States, or 52679
any other corporation having any gross receipts directly 52680
attributable to providing public utility service as an electric 52681
company or having any property directly attributable to providing 52682
public utility service as an electric company, is subject to this 52683
chapter. 52684

(3) A telephone company that no longer pays an excise tax 52685
under section 5727.30 of the Revised Code on its gross receipts 52686
billed after June 30, 2004, is first subject to taxation under 52687
this chapter for tax year 2005. For that tax year, a telephone 52688
company with a taxable year ending in 2004 shall compute the tax 52689
imposed under this chapter, and shall compute the net operating 52690
loss carry forward for tax year 2005, by multiplying the tax owed 52691

under this chapter, net of all nonrefundable credits, or the loss 52692
for the taxable year, by fifty per cent. 52693

(B) A corporation that has made an election under subchapter 52694
S, chapter one, subtitle A, of the Internal Revenue Code for its 52695
taxable year under such code is exempt from the tax imposed by 52696
section 5733.06 of the Revised Code that is based on that taxable 52697
year. 52698

A corporation that makes such an election shall file a notice 52699
of such election with the tax commissioner between the first day 52700
of January and the thirty-first day of March of each tax year that 52701
the election is in effect. 52702

(C) An entity defined to be a "real estate investment trust" 52703
by section 856 of the Internal Revenue Code, a "regulated 52704
investment company" by section 851 of the Internal Revenue Code, 52705
or a "real estate mortgage investment conduit" by section 860D of 52706
the Internal Revenue Code, is exempt from taxation for a tax year 52707
as a corporation under this chapter and is exempt from taxation 52708
for a return year as a dealer in intangibles under Chapter 5725. 52709
of the Revised Code if it provides the report required by this 52710
division. By the last day of March of the tax or return year the 52711
entity shall submit to the tax commissioner the name of the entity 52712
with a list of the names, addresses, and social security or 52713
federal identification numbers of all investors, shareholders, and 52714
other similar investors who owned any interest or invested in the 52715
entity during the preceding calendar year. The commissioner may 52716
extend the date by which the report must be submitted for 52717
reasonable cause shown by the entity. The commissioner may 52718
prescribe the form of the report required for exemption under this 52719
division. 52720

(D)(1) As used in this division: 52721

(a) "Commercial printer" means a person primarily engaged in 52722

the business of commercial printing. However, "commercial printer" 52723
does not include a person primarily engaged in the business of 52724
providing duplicating services using photocopy machines or other 52725
xerographic processes. 52726

(b) "Commercial printing" means printing by one or more 52727
common processes such as letterpress, lithography, gravure, 52728
screen, or digital imaging, and includes related activities such 52729
as binding, platemaking, prepress operation, cartographic 52730
composition, and typesetting. 52731

(c) "Contract for printing" means an oral or written 52732
agreement for the purchase of printed materials produced by a 52733
commercial printer. 52734

(d) "Intangible property located at the premises of a 52735
commercial printer" means intangible property of any kind owned or 52736
licensed by a customer of the commercial printer and furnished to 52737
the commercial printer for use in commercial printing. 52738

(e) "Printed material" means any tangible personal property 52739
produced or processed by a commercial printer pursuant to a 52740
contract for printing. 52741

(f) "Related member" has the same meaning as in ~~division~~ 52742
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 52743
division (B) of that section. 52744

(2) Except as provided in divisions (D)(3) and (4) of this 52745
section, a corporation not otherwise subject to the tax imposed by 52746
section 5733.06 of the Revised Code for a tax year does not become 52747
subject to that tax for the tax year solely by reason of any one 52748
or more of the following occurring in this state during the 52749
taxable year that ends immediately prior to the tax year: 52750

(a) Ownership by the corporation or a related member of the 52751
corporation of tangible personal property or intangible property 52752
located during all or any portion of the taxable year or on the 52753

first day of the tax year at the premises of a commercial printer 52754
with which the corporation or the corporation's related member has 52755
a contract for printing with respect to such property or the 52756
premises of a commercial printer's related member with which the 52757
corporation or the corporation's related member has a contract for 52758
printing with respect to such property; 52759

(b) Sales by the corporation or a related member of the 52760
corporation of property produced at and shipped or distributed 52761
from the premises of a commercial printer with which the 52762
corporation or the corporation's related member has a contract for 52763
printing with respect to such property or the premises of a 52764
commercial printer's related member with which the corporation or 52765
the corporation's related member has a contract for printing with 52766
respect to such property; 52767

(c) Activities of employees, officers, agents, or contractors 52768
of the corporation or a related member of the corporation on the 52769
premises of a commercial printer with which the corporation or the 52770
corporation's related member has a contract for printing or the 52771
premises of a commercial printer's related member with which the 52772
corporation or the corporation's related member has a contract for 52773
printing, where the activities are directly and solely related to 52774
quality control, distribution, or printing services, or any 52775
combination thereof, performed by or at the direction of the 52776
commercial printer or the commercial printer's related member. 52777

(3) The exemption under this division does not apply for a 52778
taxable year to any corporation having on the first day of January 52779
of the tax year or at any time during the taxable year ending 52780
immediately preceding the first day of January of the tax year a 52781
related member which, on the first day of January of the tax year 52782
or during any portion of such taxable year of the corporation, has 52783
nexus in or with this state under the Constitution of the United 52784
States or holds a certificate of compliance with the laws of this 52785

state authorizing it to do business in this state. 52786

(4) With respect to allowing the exemption under this 52787
division, the tax commissioner shall be guided by the doctrines of 52788
"economic reality," "sham transaction," "step transaction," and 52789
"substance over form." A corporation shall bear the burden of 52790
establishing by a preponderance of the evidence that any 52791
transaction giving rise to an exemption claimed under this 52792
division did not have as a principal purpose the avoidance of any 52793
portion of the tax imposed by section 5733.06 of the Revised Code. 52794

Application of the doctrines listed in division (D)(4) of 52795
this section is not limited to this division. 52796

Sec. 5733.121. If a corporation entitled to a refund under 52797
section 5733.11 or 5733.12 of the Revised Code is indebted to this 52798
state for any tax, workers' compensation premium due under section 52799
4123.35 of the Revised Code, unemployment compensation 52800
contribution due under section 4141.25 of the Revised Code, or 52801
unemployment compensation payment in lieu of contribution under 52802
section 4141.241 of the Revised Code or fee ~~administered by the~~ 52803
~~tax commissioner~~ that is paid to the state or to the clerk of 52804
courts pursuant to section 4505.06 of the Revised Code, or any 52805
charge, penalty, or interest arising from such a tax, workers' 52806
compensation premium, unemployment compensation contribution, or 52807
unemployment compensation payment in lieu of contribution under 52808
section 4141.241 of the Revised Code or fee, the amount refundable 52809
may be applied in satisfaction of the debt. If the amount 52810
refundable is less than the amount of the debt, it may be applied 52811
in partial satisfaction of the debt. If the amount refundable is 52812
greater than the amount of the debt, the amount remaining after 52813
satisfaction of the debt shall be refunded. If the corporation has 52814
more than one such debt, any debt subject to section 5739.33 or 52815
division (G) of section 5747.07 of the Revised Code shall be 52816

satisfied first. This section applies only to debts that have 52817
become final. 52818

The tax commissioner may, with the consent of the taxpayer, 52819
provide for the crediting, against tax due for any tax year, of 52820
the amount of any refund due the taxpayer under this chapter for a 52821
preceding tax year. 52822

Sec. 5733.55. (A) As used in this section: 52823

(1) "9-1-1 system" has the same meaning as in section 4931.40 52824
of the Revised Code. 52825

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 52826
approved by the public utilities commission for the telephone 52827
network portion of a 9-1-1 system pursuant to section 4931.47 of 52828
the Revised Code. 52829

(3) "Eligible nonrecurring 9-1-1 charges" means all 52830
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 52831

(a) Charges for a system that was not established pursuant to 52832
a plan adopted under section 4931.44 of the Revised Code or an 52833
agreement under section 4931.48 of the Revised Code; 52834

(b) Charges for that part of a system established pursuant to 52835
such a plan or agreement that are excluded from the credit by 52836
division (C)(2) of section 4931.47 of the Revised Code. 52837

(4) "Telephone company" has the same meaning as in section 52838
5727.01 of the Revised Code. 52839

(B) Beginning in tax year 2005, a telephone company shall be 52840
allowed a nonrefundable credit against the tax imposed by section 52841
5733.06 of the Revised Code equal to the amount of its eligible 52842
nonrecurring 9-1-1 charges. The credit shall be claimed for the 52843
company's taxable year that covers the period in which the 9-1-1 52844
service for which the credit is claimed becomes available for use. 52845
The credit shall be claimed in the order required by section 52846

5733.98 of the Revised Code. If the credit exceeds the total taxes 52847
due under section 5733.06 of the Revised Code for the tax year, 52848
the commissioner shall credit the excess against taxes due under 52849
that section for succeeding tax years until the full amount of the 52850
credit is granted. 52851

(C) After the last day a return, with any extensions, may be 52852
filed by any telephone company that is eligible to claim a credit 52853
under this section, the commissioner shall determine whether the 52854
sum of the credits allowed for prior tax years commencing with tax 52855
year 2005 plus the sum of the credits claimed for the current tax 52856
year exceeds fifteen million dollars. If it does, the credits 52857
allowed under this section for the current tax year shall be 52858
reduced by a uniform percentage such that the sum of the credits 52859
allowed for the current tax year do not exceed fifteen million 52860
dollars claimed by all telephone companies for all tax years. 52861
Thereafter, no credit shall be granted under this section, except 52862
for the remaining portions of any credits allowed under division 52863
(B) of this section. 52864

(D) A telephone company that is entitled to carry forward a 52865
credit against its public utility excise tax liability under 52866
section 5727.39 of the Revised Code is entitled to carry forward 52867
any amount of that credit remaining after its last public utility 52868
excise tax payment for the period of July 1, 2003, through June 52869
30, 2004, and claim that amount as a credit against its 52870
corporation franchise tax liability under this section. Nothing in 52871
this section authorizes a telephone company to claim a credit 52872
under this section for any eligible nonrecurring 9-1-1 charges for 52873
which it has already claimed a credit under section 5727.39 of the 52874
Revised Code. 52875

Sec. 5733.56. Beginning in tax year 2005, a telephone company 52876
that provides any telephone service program to aid the 52877

communicatively impaired in accessing the telephone network under 52878
section 4905.79 of the Revised Code is allowed a nonrefundable 52879
credit against the tax imposed by section 5733.06 of the Revised 52880
Code. The amount of the credit is the cost incurred by the company 52881
for providing the telephone service program during its taxable 52882
year, excluding any costs incurred prior to July 1, 2004. If the 52883
tax commissioner determines that the credit claimed under this 52884
section by a telephone company was not correct, the commissioner 52885
shall determine the proper credit. 52886

A telephone company shall claim the credit in the order 52887
required by section 5733.98 of the Revised Code. If the credit 52888
exceeds the total taxes due under section 5733.06 of the Revised 52889
Code for the tax year, the commissioner shall credit the excess 52890
against taxes due under that section for succeeding tax years 52891
until the full amount of the credit is granted. Nothing in this 52892
section authorizes a telephone company to claim a credit under 52893
this section for any costs incurred for providing a telephone 52894
service program for which it is claiming a credit under section 52895
5727.44 of the Revised Code. 52896

Sec. 5733.57. (A) As used in this section: 52897

(1) "Small telephone company" means a telephone company, 52898
existing as such as of January 1, 2003, with twenty-five thousand 52899
or fewer access lines as shown on the company's annual report 52900
filed under section 4905.14 of the Revised Code for the calendar 52901
year immediately preceding the tax year, and is an "incumbent 52902
local exchange carrier" under 47 U.S.C. 251(h). 52903

(2) "Gross receipts tax amount" means the product obtained by 52904
multiplying four and three-fourths per cent by the amount of a 52905
small telephone company's taxable gross receipts, excluding the 52906
deduction of twenty-five thousand dollars, that the tax 52907
commissioner would have determined under section 5727.33 of the 52908

Revised Code for that small telephone company for the annual 52909
period ending on the thirtieth day of June of the calendar year 52910
immediately preceding the tax year, as that section applied in the 52911
measurement period from July 1, 2002, to June 30, 2003. 52912

(3) "Applicable percentage" means one hundred per cent for 52913
tax year 2005; eighty per cent for tax year 2006; sixty per cent 52914
for tax year 2007; forty per cent for tax year 2008; twenty per 52915
cent for tax year 2009; and zero per cent for each subsequent tax 52916
year thereafter. 52917

(4) "Applicable amount" means the amount resulting from 52918
subtracting the gross receipts tax amount from the tax imposed by 52919
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 52920
the tax year, without regard to any credits available to the small 52921
telephone company. 52922

(B)(1) Except as provided in division (B)(2) of this section, 52923
beginning in tax year 2005, a small telephone company is hereby 52924
allowed a nonrefundable credit against the tax imposed by sections 52925
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 52926
product obtained by multiplying the applicable percentage by the 52927
applicable amount. The credit shall be claimed in the order 52928
required by section 5733.98 of the Revised Code. 52929

(2) If the applicable amount for a tax year is less than 52930
zero, a small telephone company shall not be allowed for that tax 52931
year the credit provided under this section. 52932

Sec. 5733.98. (A) To provide a uniform procedure for 52933
calculating the amount of tax imposed by section 5733.06 of the 52934
Revised Code that is due under this chapter, a taxpayer shall 52935
claim any credits to which it is entitled in the following order, 52936
except as otherwise provided in section 5733.058 of the Revised 52937
Code: 52938

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	52939 52940
(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;	52941 52942
(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	52943 52944
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	52945 52946
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	52947 52948
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	52949 52950
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	52951 52952
(8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	52953 52954
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	52955 52956
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	52957 52958
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	52959 52960
(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the <u>the</u> Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	52961 52962 52963 52964
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	52965 52966 52967

(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	52968 52969
(15) The job training credit under section 5733.42 of the Revised Code;	52970 52971
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	52972 52973
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	52974 52975
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	52976 52977
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	52978 52979
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	52980 52981
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	52982 52983
(22) The export sales credit under section 5733.069 of the Revised Code;	52984 52985
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	52986 52987
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	52988 52989
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	52990 52991
(26) <u>The credit for small telephone companies under section 5733.57 of the Revised Code;</u>	52992 52993
(27) <u>The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;</u>	52994 52995

<u>(28) The credit for providing programs to aid the</u>	52996
<u>communicatively impaired under section 5733.56 of the Revised</u>	52997
<u>Code;</u>	52998
<u>(29) The refundable jobs creation credit under division (A)</u>	52999
<u>of section 5733.0610 of the Revised Code;</u>	53000
(27) <u>(30) The refundable credit for tax withheld under</u>	53001
<u>division (B)(2) of section 5747.062 of the Revised Code;</u>	53002
(28) <u>(31) The credit for losses on loans made to the Ohio</u>	53003
<u>venture capital program under sections 150.01 to 150.10 of the</u>	53004
<u>Revised Code if the taxpayer elected a refundable credit under</u>	53005
<u>section 150.07 of the Revised Code.</u>	53006
(B) For any credit except the credits enumerated in divisions	53007
(A) (26) , (27) , <u>(29)</u> , <u>(30)</u> , and (28) <u>(31)</u> of this section, the amount	53008
of the credit for a tax year shall not exceed the tax due after	53009
allowing for any other credit that precedes it in the order	53010
required under this section. Any excess amount of a particular	53011
credit may be carried forward if authorized under the section	53012
creating that credit.	53013
Sec. 5735.05. (A) To provide revenue for maintaining the	53014
state highway system; to widen existing surfaces on such highways;	53015
to resurface such highways; to pay that portion of the	53016
construction cost of a highway project which a county, township,	53017
or municipal corporation normally would be required to pay, but	53018
which the director of transportation, pursuant to division (B) of	53019
section 5531.08 of the Revised Code, determines instead will be	53020
paid from moneys in the highway operating fund; to enable the	53021
counties of the state properly to plan, maintain, and repair their	53022
roads and to pay principal, interest, and charges on bonds and	53023
other obligations issued pursuant to Chapter 133. of the Revised	53024
Code for highway improvements; to enable the municipal	53025

corporations to plan, construct, reconstruct, repave, widen, 53026
maintain, repair, clear, and clean public highways, roads, and 53027
streets, and to pay the principal, interest, and charges on bonds 53028
and other obligations issued pursuant to Chapter 133. of the 53029
Revised Code for highway improvements; to enable the Ohio turnpike 53030
commission to construct, reconstruct, maintain, and repair 53031
turnpike projects; to maintain and repair bridges and viaducts; to 53032
purchase, erect, and maintain street and traffic signs and 53033
markers; to purchase, erect, and maintain traffic lights and 53034
signals; to pay the costs apportioned to the public under sections 53035
4907.47 and 4907.471 of the Revised Code and to supplement revenue 53036
already available for such purposes; to pay the costs incurred by 53037
the public utilities commission in administering sections 4907.47 53038
to 4907.476 of the Revised Code; to distribute equitably among 53039
those persons using the privilege of driving motor vehicles upon 53040
such highways and streets the cost of maintaining and repairing 53041
them; to pay the interest, principal, and charges on highway 53042
capital improvements bonds and other obligations issued pursuant 53043
to Section 2m of Article VIII, Ohio Constitution, and section 53044
151.06 of the Revised Code; to pay the interest, principal, and 53045
charges on highway obligations issued pursuant to Section 2i of 53046
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 53047
of the Revised Code; ~~and~~ to provide revenue for the purposes of 53048
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 53049
expenses of the department of taxation incident to the 53050
administration of the motor fuel laws, a motor fuel excise tax is 53051
hereby imposed on all motor fuel dealers upon receipt of motor 53052
fuel within this state at the rate of two cents plus the cents per 53053
gallon rate on each gallon so received, to be computed in the 53054
manner set forth in section 5735.06 of the Revised Code; provided 53055
that no tax is hereby imposed upon the following transactions: 53056

(1) The sale of dyed diesel fuel by a licensed motor fuel 53057
dealer from a location other than a retail service station 53058

provided the licensed motor fuel dealer places on the face of the 53059
delivery document or invoice, or both if both are used, a 53060
conspicuous notice stating that the fuel is dyed and is not for 53061
taxable use, and that taxable use of that fuel is subject to a 53062
penalty. The tax commissioner, by rule, may provide that any 53063
notice conforming to rules or regulations issued by the United 53064
States department of the treasury or the Internal Revenue Service 53065
is sufficient notice for the purposes of division (A)(1) of this 53066
section. 53067

(2) The sale of K-1 kerosene to a retail service station, 53068
except when placed directly in the fuel supply tank of a motor 53069
vehicle. Such sale shall be rebuttably presumed to not be 53070
distributed or sold for use or used to generate power for the 53071
operation of motor vehicles upon the public highways or upon the 53072
waters within the boundaries of this state. 53073

(3) The sale of motor fuel by a licensed motor fuel dealer to 53074
another licensed motor fuel dealer; 53075

(4) The exportation of motor fuel by a licensed motor fuel 53076
dealer from this state to any other state or foreign country; 53077

(5) The sale of motor fuel to the United States government or 53078
any of its agencies, except such tax as is permitted by it, where 53079
such sale is evidenced by an exemption certificate, in a form 53080
approved by the tax commissioner, executed by the United States 53081
government or an agency thereof certifying that the motor fuel 53082
therein identified has been purchased for the exclusive use of the 53083
United States government or its agency; 53084

(6) The sale of motor fuel ~~which~~ that is in the process of 53085
transportation in foreign or interstate commerce, except ~~in so far~~ 53086
insofar as it may be taxable under the Constitution and statutes 53087
of the United States, and except as may be agreed upon in writing 53088
by the dealer and the commissioner; 53089

(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;

(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type A;

(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 53121
the licensed motor fuel dealer to another licensed motor fuel 53122
dealer, the seller may deduct on the report required by section 53123
5735.06 of the Revised Code the number of gallons so sold for the 53124
month within which the motor fuel was sold or delivered. In this 53125
event the number of gallons is deemed to have been received by the 53126
purchaser, who shall report and pay the tax imposed thereon. 53127

Sec. 5735.053. There is hereby created in the state treasury 53128
the motor fuel tax administration fund for the purpose of paying 53129
the expenses of the department of taxation incident to the 53130
administration of the motor fuel laws. After the treasurer of 53131
state credits the tax refund fund out of tax receipts as required 53132
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 53133
Code, the treasurer of state shall transfer to the motor fuel tax 53134
administration fund two hundred seventy-five one-thousandths per 53135
cent of the receipts from the taxes levied by sections 5735.05, 53136
5735.25, 5735.29, and 5735.30 of the Revised Code. 53137

Sec. 5735.23. (A) Out of receipts from the tax levied by 53138
section 5735.05 of the Revised Code, the treasurer of state shall 53139
place to the credit of the tax refund fund established by section 53140
5703.052 of the Revised Code amounts equal to the refunds 53141
certified by the tax commissioner pursuant to sections 5735.13, 53142
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 53143
treasurer of state shall then transfer the amount required by 53144
section 5735.051 of the Revised Code to the waterways safety fund 53145
and, the amount required by section 4907.472 of the Revised Code 53146
to the grade crossing protection fund, and the amount required by 53147
section 5735.053 of the Revised Code to the motor fuel tax 53148
administration fund. 53149

(B) Except as provided in division (D) of this section, each 53150

month the balance of the receipts from the tax levied by section 53151
5735.05 of the Revised Code shall be credited, after receipt by 53152
the treasurer of state of certification from the commissioners of 53153
the sinking fund, as required by section 5528.35 of the Revised 53154
Code, that there are sufficient moneys to the credit of the 53155
highway obligations bond retirement fund to meet in full all 53156
payments of interest, principal, and charges for the retirement of 53157
highway obligations issued pursuant to Section 2i of Article VIII, 53158
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 53159
Code due and payable during the current calendar year, as follows: 53160

(1) To the state and local government highway distribution 53161
fund, which is hereby created in the state treasury, an amount 53162
that is the same percentage of the balance to be credited as that 53163
portion of the tax per gallon determined under division (B)(2)(a) 53164
of section 5735.06 of the Revised Code is of the total tax per 53165
gallon determined under divisions (B)(2)(a) and (b) of that 53166
section. 53167

(2) After making the distribution to the state and local 53168
government highway distribution fund, the remainder shall be 53169
credited as follows: 53170

(a) Thirty per cent to the gasoline excise tax fund for 53171
distribution pursuant to division (A)(1) of section 5735.27 of the 53172
Revised Code; 53173

(b) Twenty-five per cent to the gasoline excise tax fund for 53174
distribution pursuant to division (A)(3) of section 5735.27 of the 53175
Revised Code; 53176

(c) Except as provided in division (D) of this section, 53177
forty-five per cent to the highway operating fund for distribution 53178
pursuant to division (B)(1) of section 5735.27 of the Revised 53179
Code. 53180

(C) From the balance in the state and local government 53181

highway distribution fund on the last day of each month there 53182
shall be paid the following amounts: 53183

(1) To the local transportation improvement program fund 53184
created by section 164.14 of the Revised Code, an amount equal to 53185
a fraction of the balance in the state and local government 53186
highway distribution fund, the numerator of which fraction is one 53187
and the denominator of which fraction is that portion of the tax 53188
per gallon determined under division (B)(2)(a) of section 5735.06 53189
of the Revised Code; 53190

(2) An amount equal to five cents multiplied by the number of 53191
gallons of motor fuel sold at stations operated by the Ohio 53192
turnpike commission, such gallonage to be certified by the 53193
commission to the treasurer of state not later than the last day 53194
of the month following. The funds paid to the commission pursuant 53195
to this section shall be expended for the construction, 53196
reconstruction, maintenance, and repair of turnpike projects, 53197
except that the funds may not be expended for the construction of 53198
new interchanges. The funds also may be expended for the 53199
construction, reconstruction, maintenance, and repair of those 53200
portions of connecting public roads that serve existing 53201
interchanges and are determined by the commission and the director 53202
of transportation to be necessary for the safe merging of traffic 53203
between the turnpike and those public roads. 53204

The remainder of the balance shall be distributed as follows 53205
on the fifteenth day of the following month: 53206

(a) Ten and seven-tenths per cent shall be paid to municipal 53207
corporations for distribution pursuant to division (A)(1) of 53208
section 5735.27 of the Revised Code and may be used for any 53209
purpose for which payments received under that division may be 53210
used. 53211

(b) Five per cent shall be paid to townships for distribution 53212

pursuant to division (A)(5) of section 5735.27 of the Revised Code 53213
and may be used for any purpose for which payments received under 53214
that division may be used. 53215

(c) Nine and three-tenths per cent shall be paid to counties 53216
for distribution pursuant to division (A)(3) of section 5735.27 of 53217
the Revised Code and may be used for any purpose for which 53218
payments received under that division may be used. 53219

(d) Except as provided in division (D) of this section, the 53220
balance shall be transferred to the highway operating fund and 53221
used for the purposes set forth in division (B)(1) of section 53222
5735.27 of the Revised Code. 53223

(D) Beginning on the first day of September each fiscal year, 53224
any amounts required to be credited or transferred to the highway 53225
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 53226
section shall be credited or transferred to the highway capital 53227
improvement bond service fund created in section 151.06 of the 53228
Revised Code, until such time as the office of budget and 53229
management receives certification from the treasurer of state or 53230
the treasurer of state's designee that sufficient money has been 53231
credited or transferred to the bond service fund to meet in full 53232
all payments of debt service and financing costs due during the 53233
fiscal year from that fund. 53234

Sec. 5735.26. The treasurer of state shall place to the 53235
credit of the tax refund fund created by section 5703.052 of the 53236
Revised Code, out of receipts from the tax levied by section 53237
5735.25 of the Revised Code, amounts equal to the refunds 53238
certified by the tax commissioner pursuant to sections 5735.142 53239
and 5735.25 of the Revised Code, which shall be paid from such 53240
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 53241
~~for the maintenance and administration of the motor fuel laws.~~ The 53242
treasurer of state shall then transfer the amount required by 53243

section 5735.051 of the Revised Code to the waterways safety fund 53244
and the amount required by section 5735.053 of the Revised Code to 53245
the motor fuel tax administration fund. 53246

The balance of taxes collected under section 5735.25 of the 53247
Revised Code shall be credited as follows, after the credits to 53248
the tax refund fund, ~~and after deduction of the cost of~~ 53249
~~administration of the motor fuel laws,~~ and after the ~~transfer~~ 53250
transfers to the waterways safety fund and motor fuel tax 53251
administration fund, and after receipt by the treasurer of state 53252
of certifications from the commissioners of the sinking fund 53253
certifying, as required by sections 5528.15 and 5528.35 of the 53254
Revised Code, there are sufficient moneys to the credit of the 53255
highway improvement bond retirement fund to meet in full all 53256
payments of interest, principal, and charges for the retirement of 53257
bonds and other obligations issued pursuant to Section 2g of 53258
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 53259
of the Revised Code due and payable during the current calendar 53260
year, and that there are sufficient moneys to the credit of the 53261
highway obligations bond retirement fund to meet in full all 53262
payments of interest, principal, and charges for the retirement of 53263
highway obligations issued pursuant to Section 2i of Article VIII, 53264
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 53265
Code due and payable during the current calendar year: 53266

(A) Sixty-seven and one-half per cent to the highway 53267
operating fund for distribution pursuant to division (B)(2) of 53268
section 5735.27 of the Revised Code; 53269

(B) Seven and one-half per cent to the gasoline excise tax 53270
fund for distribution pursuant to division (A)(2) of such section; 53271

(C) Seven and one-half per cent to the gasoline excise tax 53272
fund for distribution pursuant to division (A)(4) of such section; 53273

(D) Seventeen and one-half per cent to the gasoline excise 53274

tax fund for distribution pursuant to division (A)(5) of such section. 53275
53276

Sec. 5735.291. The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by section 5735.29 of the Revised Code, amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.142 and 5735.29 of the Revised Code. The refunds provided for by sections 5735.142 and 5735.29 of the Revised Code shall be paid from such fund. The treasurer of state shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. ~~The~~ 53277
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The balance of taxes collected under section 5735.29 of the Revised Code after the credits to the tax refund fund, ~~and after~~ the ~~transfer~~ transfers to the waterways safety fund and the motor fuel tax administration fund, and after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable 53288
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during the current calendar year, shall be credited to the highway 53307
operating fund, which is hereby created in the state treasury and 53308
shall be used solely for the purposes enumerated in section 53309
5735.29 of the Revised Code. All investment earnings of the fund 53310
shall be credited to the fund. 53311

Sec. 5735.30. (A) For the purpose of providing funds to pay 53312
the state's share of the cost of constructing and reconstructing 53313
highways and eliminating railway grade crossings on the major 53314
thoroughfares of the state highway system and urban extensions 53315
thereof, to pay that portion of the construction cost of a highway 53316
project which a county, township, or municipal corporation 53317
normally would be required to pay, but which the director of 53318
transportation, pursuant to division (B) of section 5531.08 of the 53319
Revised Code, determines instead will be paid from moneys in the 53320
highway operating fund, to pay the interest, principal, and 53321
charges on bonds and other obligations issued pursuant to Section 53322
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 53323
5528.11 of the Revised Code, to pay the interest, principal, and 53324
charges on highway obligations issued pursuant to Section 2i of 53325
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 53326
of the Revised Code, ~~and~~ to provide revenues for the purposes of 53327
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 53328
expenses of the department of taxation incident to the 53329
administration of the motor fuel laws, a motor fuel excise tax is 53330
hereby imposed on all motor fuel dealers upon their receipt of 53331
motor fuel within the state, at the rate of one cent on each 53332
gallon so received, to be reported, computed, paid, collected, 53333
administered, enforced, refunded, and subject to the same 53334
exemptions and penalties as provided in this chapter of the 53335
Revised Code. 53336

The tax imposed by this section shall be in addition to the 53337
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 53338

Revised Code. 53339

(B) The treasurer of state shall place to the credit of the 53340
tax refund fund created by section 5703.052 of the Revised Code, 53341
out of receipts from the tax levied by this section, amounts equal 53342
to the refunds certified by the tax commissioner pursuant to this 53343
section. The refund provided for by ~~the first paragraph~~ division 53344
(A) of this section shall be paid from such fund. The treasurer 53345
shall then transfer the amount required by section 5735.051 of the 53346
Revised Code to the waterways safety fund and the amount required 53347
by section 5735.053 of the Revised Code to the motor fuel tax 53348
administration fund. The balance of taxes for which the liability 53349
has become fixed prior to July 1, 1955, under this section, after 53350
the credit to the tax refund fund, shall be credited to the 53351
highway operating fund. 53352

(C)(1) The moneys derived from the tax levied by this 53353
section, after ~~the credit to the tax refund fund and the waterways~~ 53354
~~safety fund as provided~~ and transfers required by division (B) of 53355
this section, shall, during each calendar year, be credited to the 53356
highway improvement bond retirement fund created by section 53357
5528.12 of the Revised Code, until the commissioners of the 53358
sinking fund certify to the treasurer of state, as required by 53359
section 5528.17 of the Revised Code, that there are sufficient 53360
moneys to the credit of the highway improvement bond retirement 53361
fund to meet in full all payments of interest, principal, and 53362
charges for the retirement of bonds and other obligations issued 53363
pursuant to Section 2g of Article VIII, Ohio Constitution, and 53364
sections 5528.10 and 5528.11 of the Revised Code due and payable 53365
during the current calendar year and during the next succeeding 53366
calendar year. From the date of the receipt of the certification 53367
required by section 5528.17 of the Revised Code by the treasurer 53368
of state until the thirty-first day of December of the calendar 53369
year in which such certification is made, all moneys received in 53370

the state treasury from the tax levied by this section, after the 53371
~~credit to the tax refund fund and the waterways safety fund as~~ 53372
~~provided and transfers required by division (B) of this section,~~ 53373
shall be credited to the highway obligations bond retirement fund 53374
created by section 5528.32 of the Revised Code, until the 53375
commissioners of the sinking fund certify to the treasurer of 53376
state, as required by section 5528.38 of the Revised Code, that 53377
there are sufficient moneys to the credit of the highway 53378
obligations bond retirement fund to meet in full all payments of 53379
interest, principal, and charges for the retirement of obligations 53380
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 53381
and sections 5528.30 and 5528.31 of the Revised Code due and 53382
payable during the current calendar year and during the next 53383
succeeding calendar year. ~~From~~ 53384

(2) ~~From~~ the date of the receipt of the certification 53385
required by section 5528.38 of the Revised Code by the treasurer 53386
of state until the thirty-first day of December of the calendar 53387
year in which such certification is made, all moneys received in 53388
the state treasury from the tax levied by this section, after the 53389
~~credit to the tax refund fund and the waterways safety fund as~~ 53390
~~provided and transfers required by division (B) of this section,~~ 53391
shall be credited to the highway operating fund, except as 53392
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 53393
section. 53394

(3) From the date of the receipt by the treasurer of state of 53395
certifications from the commissioners of the sinking fund, as 53396
required by sections 5528.18 and 5528.39 of the Revised Code, 53397
certifying that the moneys to the credit of the highway 53398
improvement bond retirement fund are sufficient to meet in full 53399
all payments of interest, principal, and charges for the 53400
retirement of all bonds and other obligations which may be issued 53401
pursuant to Section 2g of Article VIII, Ohio Constitution, and 53402

sections 5528.10 and 5528.11 of the Revised Code, and to the 53403
credit of the highway obligations bond retirement fund are 53404
sufficient to meet in full all payments of interest, principal, 53405
and charges for the retirement of all obligations issued pursuant 53406
to Section 2i of Article VIII, Ohio Constitution, and sections 53407
5528.30 and 5528.31 of the Revised Code, the moneys derived from 53408
the tax levied by this section, after the credit ~~to the tax refund~~ 53409
~~fund and the waterways safety fund as provided and transfers~~ 53410
required by division (B) of this section, shall be credited to the 53411
highway operating fund. 53412

Sec. 5739.01. As used in this chapter: 53413

(A) "Person" includes individuals, receivers, assignees, 53414
trustees in bankruptcy, estates, firms, partnerships, 53415
associations, joint-stock companies, joint ventures, clubs, 53416
societies, corporations, the state and its political subdivisions, 53417
and combinations of individuals of any form. 53418

(B) "Sale" and "selling" include all of the following 53419
transactions for a consideration in any manner, whether absolutely 53420
or conditionally, whether for a price or rental, in money or by 53421
exchange, and by any means whatsoever: 53422

(1) All transactions by which title or possession, or both, 53423
of tangible personal property, is or is to be transferred, or a 53424
license to use or consume tangible personal property is or is to 53425
be granted; 53426

(2) All transactions by which lodging by a hotel is or is to 53427
be furnished to transient guests; 53428

(3) All transactions by which: 53429

(a) An item of tangible personal property is or is to be 53430
repaired, except property, the purchase of which would not be 53431
subject to the tax imposed by section 5739.02 of the Revised Code; 53432

(b) An item of tangible personal property is or is to be 53433
installed, except property, the purchase of which would not be 53434
subject to the tax imposed by section 5739.02 of the Revised Code 53435
or property that is or is to be incorporated into and will become 53436
a part of a production, transmission, transportation, or 53437
distribution system for the delivery of a public utility service; 53438

(c) The service of washing, cleaning, waxing, polishing, or 53439
painting a motor vehicle is or is to be furnished; 53440

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 53441
or are to be provided; 53442

(e) Automatic data processing, computer services, or 53443
electronic information services are or are to be provided for use 53444
in business when the true object of the transaction is the receipt 53445
by the consumer of automatic data processing, computer services, 53446
or electronic information services rather than the receipt of 53447
personal or professional services to which automatic data 53448
processing, computer services, or electronic information services 53449
are incidental or supplemental. Notwithstanding any other 53450
provision of this chapter, such transactions that occur between 53451
members of an affiliated group are not sales. An affiliated group 53452
means two or more persons related in such a way that one person 53453
owns or controls the business operation of another member of the 53454
group. In the case of corporations with stock, one corporation 53455
owns or controls another if it owns more than fifty per cent of 53456
the other corporation's common stock with voting rights. 53457

(f) Telecommunications service, other than mobile 53458
telecommunications service after July 31, 2002, is or is to be 53459
provided that originates or terminates in this state and is 53460
charged in the records of the telecommunications service vendor to 53461
the consumer's telephone number or account in this state, or that 53462
both originates and terminates in this state; but does not include 53463

transactions by which telecommunications service is paid for by 53464
using a prepaid authorization number or prepaid telephone calling 53465
card, or by which local telecommunications service is obtained 53466
from a coin-operated telephone and paid for by using coin; 53467

(g) Landscaping and lawn care service is or is to be 53468
provided; 53469

(h) Private investigation and security service is or is to be 53470
provided; 53471

(i) Information services or tangible personal property is 53472
provided or ordered by means of a nine hundred telephone call; 53473

(j) Building maintenance and janitorial service is or is to 53474
be provided; 53475

(k) Employment service is or is to be provided; 53476

(l) Employment placement service is or is to be provided; 53477

(m) Exterminating service is or is to be provided; 53478

(n) Physical fitness facility service is or is to be 53479
provided; 53480

(o) Recreation and sports club service is or is to be 53481
provided. 53482

(p) After July 31, 2002, mobile telecommunications service is 53483
or is to be provided ~~in this state~~ when that service is sitused to 53484
this state pursuant to the "Mobile Telecommunications Sourcing 53485
Act," P- Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 53486
U.S.C.A. 116 to 126, as amended. 53487

(q) Satellite television service is or is to be provided; 53488

(r) Personal care service is or is to be provided to an 53489
individual. As used in this division, "personal care service" 53490
includes skin care, the application of cosmetics, manicuring, 53491
pedicuring, hair removal, tattooing, body piercing, tanning, 53492

massage, and other similar services. "Personal care service" does 53493
not include a service provided by individuals licensed under Title 53494
XLVII of the Revised Code who are authorized to perform 53495
therapeutic massage pursuant to their scope of practice, or the 53496
cutting, coloring, or styling of an individual's hair. 53497

(s) The transportation of persons by motor vehicle or 53498
aircraft is or is to be provided, when the point of origin and the 53499
point of termination are both within this state, except for 53500
transportation provided by a transit bus, as defined in section 53501
5735.01 of the Revised Code, and transportation provided by a 53502
citizen of the United States holding a certificate of public 53503
convenience and necessity issued under 49 U.S.C. 41102; 53504

(t) Motor vehicle towing service is or is to be provided. As 53505
used in this division, "motor vehicle towing service" means the 53506
towing or conveyance of a wrecked, disabled, or illegally parked 53507
motor vehicle. 53508

(u) Snow removal service is or is to be provided. As used in 53509
this division, "snow removal" means the removal of snow by any 53510
mechanized means. 53511

(4) All transactions by which printed, imprinted, 53512
overprinted, lithographic, multilithic, blueprinted, photostatic, 53513
or other productions or reproductions of written or graphic matter 53514
are or are to be furnished or transferred; 53515

(5) The production or fabrication of tangible personal 53516
property for a consideration for consumers who furnish either 53517
directly or indirectly the materials used in the production of 53518
fabrication work; and include the furnishing, preparing, or 53519
serving for a consideration of any tangible personal property 53520
consumed on the premises of the person furnishing, preparing, or 53521
serving such tangible personal property. Except as provided in 53522
section 5739.03 of the Revised Code, a construction contract 53523

pursuant to which tangible personal property is or is to be 53524
incorporated into a structure or improvement on and becoming a 53525
part of real property is not a sale of such tangible personal 53526
property. The construction contractor is the consumer of such 53527
tangible personal property, provided that the sale and 53528
installation of carpeting, the sale and installation of 53529
agricultural land tile, the sale and erection or installation of 53530
portable grain bins, or the provision of landscaping and lawn care 53531
service and the transfer of property as part of such service is 53532
never a construction contract. The transfer of copyrighted motion 53533
picture films for exhibition purposes is not a sale, except such 53534
films as are used solely for advertising purposes. Other than as 53535
provided in this section, "sale" and "selling" do not include 53536
transfers of interest in leased property where the original lessee 53537
and the terms of the original lease agreement remain unchanged, or 53538
professional, insurance, or personal service transactions that 53539
involve the transfer of tangible personal property as an 53540
inconsequential element, for which no separate charges are made. 53541

As used in division (B)(5) of this section: 53542

(a) "Agricultural land tile" means fired clay or concrete 53543
tile, or flexible or rigid perforated plastic pipe or tubing, 53544
incorporated or to be incorporated into a subsurface drainage 53545
system appurtenant to land used or to be used directly in 53546
production by farming, agriculture, horticulture, or floriculture. 53547
The term does not include such materials when they are or are to 53548
be incorporated into a drainage system appurtenant to a building 53549
or structure even if the building or structure is used or to be 53550
used in such production. 53551

(b) "Portable grain bin" means a structure that is used or to 53552
be used by a person engaged in farming or agriculture to shelter 53553
the person's grain and that is designed to be disassembled without 53554
significant damage to its component parts. 53555

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) All transactions by which a prepaid authorization number or a prepaid telephone calling card is or is to be transferred;

(9) All transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is

provided, to whom the transfer effected or license given by a sale 53587
is or is to be made or given, to whom the service described in 53588
division (B)(3)(f) or (i) of this section is charged, or to whom 53589
the admission is granted. 53590

(2) Physicians, dentists, hospitals, and blood banks operated 53591
by nonprofit institutions and persons licensed to practice 53592
veterinary medicine, surgery, and dentistry are consumers of all 53593
tangible personal property and services purchased by them in 53594
connection with the practice of medicine, dentistry, the rendition 53595
of hospital or blood bank service, or the practice of veterinary 53596
medicine, surgery, and dentistry. In addition to being consumers 53597
of drugs administered by them or by their assistants according to 53598
their direction, veterinarians also are consumers of drugs that 53599
under federal law may be dispensed only by or upon the order of a 53600
licensed veterinarian or physician, when transferred by them to 53601
others for a consideration to provide treatment to animals as 53602
directed by the veterinarian. 53603

(3) A person who performs a facility management, or similar 53604
service contract for a contractee is a consumer of all tangible 53605
personal property and services purchased for use in connection 53606
with the performance of such contract, regardless of whether title 53607
to any such property vests in the contractee. The purchase of such 53608
property and services is not subject to the exception for resale 53609
under division (E)(1) of this section. 53610

(4)(a) In the case of a person who purchases printed matter 53611
for the purpose of distributing it or having it distributed to the 53612
public or to a designated segment of the public, free of charge, 53613
that person is the consumer of that printed matter, and the 53614
purchase of that printed matter for that purpose is a sale. 53615

(b) In the case of a person who produces, rather than 53616
purchases, printed matter for the purpose of distributing it or 53617
having it distributed to the public or to a designated segment of 53618

the public, free of charge, that person is the consumer of all 53619
tangible personal property and services purchased for use or 53620
consumption in the production of that printed matter. That person 53621
is not entitled to claim exception under division (E)(8) of this 53622
section for any material incorporated into the printed matter or 53623
any equipment, supplies, or services primarily used to produce the 53624
printed matter. 53625

(c) The distribution of printed matter to the public or to a 53626
designated segment of the public, free of charge, is not a sale to 53627
the members of the public to whom the printed matter is 53628
distributed or to any persons who purchase space in the printed 53629
matter for advertising or other purposes. 53630

(5) A person who makes sales of any of the services listed in 53631
division (B)(3) of this section is the consumer of any tangible 53632
personal property used in performing the service. The purchase of 53633
that property is not subject to the resale exception under 53634
division (E)(1) of this section. 53635

(E) "Retail sale" and "sales at retail" include all sales, 53636
except those in which the purpose of the consumer is: 53637

(1) To resell the thing transferred or benefit of the service 53638
provided, by a person engaging in business, in the form in which 53639
the same is, or is to be, received by the person; 53640

(2) To incorporate the thing transferred as a material or a 53641
part, into tangible personal property to be produced for sale by 53642
manufacturing, assembling, processing, or refining, or to use or 53643
consume the thing transferred directly in producing a product for 53644
sale by mining, including without limitation the extraction from 53645
the earth of all substances that are classed geologically as 53646
minerals, production of crude oil and natural gas, farming, 53647
agriculture, horticulture, or floriculture, and persons engaged in 53648
rendering farming, agricultural, horticultural, or floricultural 53649

services, and services in the exploration for, and production of, 53650
crude oil and natural gas, for others are deemed engaged directly 53651
in farming, agriculture, horticulture, and floriculture, or 53652
exploration for, and production of, crude oil and natural gas; 53653
directly in the rendition of a public utility service, except that 53654
the sales tax levied by section 5739.02 of the Revised Code shall 53655
be collected upon all meals, drinks, and food for human 53656
consumption sold upon Pullman and railroad coaches. This paragraph 53657
does not exempt or except from "retail sale" or "sales at retail" 53658
the sale of tangible personal property that is to be incorporated 53659
into a structure or improvement to real property. 53660

(3) To hold the thing transferred as security for the 53661
performance of an obligation of the vendor; 53662

~~(4) To use or consume the thing transferred in the process of 53663
reclamation as required by Chapters 1513. and 1514. of the Revised 53664
Code;~~ 53665

~~(5) To resell, hold, use, or consume the thing transferred as 53666
evidence of a contract of insurance;~~ 53667

~~(6)~~(5) To use or consume the thing directly in commercial 53668
fishing; 53669

~~(7)~~(6) To incorporate the thing transferred as a material or 53670
a part into, or to use or consume the thing transferred directly 53671
in the production of, magazines distributed as controlled 53672
circulation publications; 53673

~~(8)~~(7) To use or consume the thing transferred in the 53674
production and preparation in suitable condition for market and 53675
sale of printed, imprinted, overprinted, lithographic, 53676
multilithic, blueprinted, photostatic, or other productions or 53677
reproductions of written or graphic matter; 53678

~~(9)~~(8) To use the thing transferred, as described in section 53679
5739.011 of the Revised Code, primarily in a manufacturing 53680

operation to produce tangible personal property for sale; 53681

~~(10)~~(9) To use the benefit of a warranty, maintenance or 53682
service contract, or similar agreement, as defined in division 53683
(B)(7) of this section, to repair or maintain tangible personal 53684
property, if all of the property that is the subject of the 53685
warranty, contract, or agreement would be exempt on its purchase 53686
from the tax imposed by section 5739.02 of the Revised Code; 53687

~~(11)~~(10) To use the thing transferred as qualified research 53688
and development equipment; 53689

~~(12)~~(11) To use or consume the thing transferred primarily in 53690
storing, transporting, mailing, or otherwise handling purchased 53691
sales inventory in a warehouse, distribution center, or similar 53692
facility when the inventory is primarily distributed outside this 53693
state to retail stores of the person who owns or controls the 53694
warehouse, distribution center, or similar facility, to retail 53695
stores of an affiliated group of which that person is a member, or 53696
by means of direct marketing. Division (E)~~(12)~~(11) of this section 53697
does not apply to motor vehicles registered for operation on the 53698
public highways. As used in division (E)~~(12)~~(11) of this section, 53699
"affiliated group" has the same meaning as in division (B)(3)(e) 53700
of this section and "direct marketing" has the same meaning as in 53701
division (B)(36) of section 5739.02 of the Revised Code. 53702

~~(13)~~(12) To use or consume the thing transferred to fulfill a 53703
contractual obligation incurred by a warrantor pursuant to a 53704
warranty provided as a part of the price of the tangible personal 53705
property sold or by a vendor of a warranty, maintenance or service 53706
contract, or similar agreement the provision of which is defined 53707
as a sale under division (B)(7) of this section; 53708

~~(14)~~(13) To use or consume the thing transferred in the 53709
production of a newspaper for distribution to the public; 53710

~~(15)~~(14) To use tangible personal property to perform a 53711

service listed in division (B)(3) of this section, if the property 53712
is or is to be permanently transferred to the consumer of the 53713
service as an integral part of the performance of the service. 53714

As used in division (E) of this section, "thing" includes all 53715
transactions included in divisions (B)(3)(a), (b), and (e) of this 53716
section. 53717

Sales conducted through a coin-operated device that activates 53718
vacuum equipment or equipment that dispenses water, whether or not 53719
in combination with soap or other cleaning agents or wax, to the 53720
consumer for the consumer's use on the premises in washing, 53721
cleaning, or waxing a motor vehicle, provided no other personal 53722
property or personal service is provided as part of the 53723
transaction, are not retail sales or sales at retail. 53724

(F) "Business" includes any activity engaged in by any person 53725
with the object of gain, benefit, or advantage, either direct or 53726
indirect. "Business" does not include the activity of a person in 53727
managing and investing the person's own funds. 53728

(G) "Engaging in business" means commencing, conducting, or 53729
continuing in business, and liquidating a business when the 53730
liquidator thereof holds itself out to the public as conducting 53731
such business. Making a casual sale is not engaging in business. 53732

(H)(1) "Price," except as provided in divisions (H)(2) and 53733
(3) of this section, means the aggregate value in money of 53734
anything paid or delivered, or promised to be paid or delivered, 53735
in the complete performance of a retail sale, without any 53736
deduction on account of the cost of the property sold, cost of 53737
materials used, labor or service cost, interest, discount paid or 53738
allowed after the sale is consummated, delivery charges, or any 53739
other expense. If the retail sale consists of the rental or lease 53740
of tangible personal property, "price" means the aggregate value 53741
in money of anything paid or delivered, or promised to be paid or 53742

delivered, in the complete performance of the rental or lease, 53743
without any deduction for tax, interest, labor or service charge, 53744
damage liability waiver, termination or damage charge, discount 53745
paid or allowed after the lease is consummated, delivery charges, 53746
or any other expense. Except as provided in division (H)(4) of 53747
this section, the sales tax shall be calculated and collected by 53748
the lessor on each payment made by the lessee. "Price" does not 53749
include the consideration received as a deposit refundable to the 53750
consumer upon return of a beverage container, the consideration 53751
received as a deposit on a carton or case that is used for such 53752
returnable containers, or the consideration received as a 53753
refundable security deposit for the use of tangible personal 53754
property to the extent that it actually is refunded, if the 53755
consideration for such refundable deposit is separately stated 53756
from the consideration received or to be received for the tangible 53757
personal property transferred in the retail sale. Such separation 53758
must appear in the sales agreement or on the initial invoice or 53759
initial billing rendered by the vendor to the consumer. "Price" 53760
~~also does not include delivery charges that are separately stated~~ 53761
~~on the initial invoice or initial billing rendered by the vendor.~~ 53762
Price is the amount received inclusive of the tax, provided the 53763
vendor establishes to the satisfaction of the tax commissioner 53764
that the tax was added to the price. When the price includes both 53765
a charge for tangible personal property and a charge for providing 53766
a service and the sale of the property and the charge for the 53767
service are separately taxable, or have a separately determinable 53768
tax status, the price shall be separately stated for each such 53769
charge so the tax can be correctly computed and charged. 53770

The tax collected by the vendor from the consumer under this 53771
chapter is not part of the price, but is a tax collection for the 53772
benefit of the state and of counties levying an additional sales 53773
tax pursuant to section 5739.021 or 5739.026 of the Revised Code 53774
and of transit authorities levying an additional sales tax 53775

pursuant to section 5739.023 of the Revised Code. Except for the 53776
discount authorized in section 5739.12 of the Revised Code and the 53777
effects of any rounding pursuant to section 5703.055 of the 53778
Revised Code, no person other than the state or such a county or 53779
transit authority shall derive any benefit from the collection or 53780
payment of such tax. 53781

As used in division (H)(1) of this section, "delivery 53782
charges" means charges by the vendor for preparation and delivery 53783
to a location designated by the consumer of tangible personal 53784
property or a service, including transportation, shipping, 53785
postage, handling, crating, and packing. 53786

(2) In the case of a sale of any new motor vehicle by a new 53787
motor vehicle dealer, as defined in section 4517.01 of the Revised 53788
Code, in which another motor vehicle is accepted by the dealer as 53789
part of the consideration received, "price" has the same meaning 53790
as in division (H)(1) of this section, reduced by the credit 53791
afforded the consumer by the dealer for the motor vehicle received 53792
in trade. 53793

(3) In the case of a sale of any watercraft or outboard motor 53794
by a watercraft dealer licensed in accordance with section 53795
1547.543 of the Revised Code, in which another watercraft, 53796
watercraft and trailer, or outboard motor is accepted by the 53797
dealer as part of the consideration received, "price" has the same 53798
meaning as in division (H)(1) of this section, reduced by the 53799
credit afforded the consumer by the dealer for the watercraft, 53800
watercraft and trailer, or outboard motor received in trade. 53801

(4) In the case of the lease of any motor vehicle designed by 53802
the manufacturer to carry a load of not more than one ton, 53803
watercraft, outboard motor, or aircraft, or the lease of any 53804
tangible personal property, other than motor vehicles designed by 53805
the manufacturer to carry a load of more than one ton, to be used 53806
by the lessee primarily for business purposes, the sales tax shall 53807

be collected by the vendor at the time the lease is consummated 53808
and shall be calculated by the vendor on the basis of the total 53809
amount to be paid by the lessee under the lease agreement. If the 53810
total amount of the consideration for the lease includes amounts 53811
that are not calculated at the time the lease is executed, the tax 53812
shall be calculated and collected by the vendor at the time such 53813
amounts are billed to the lessee. In the case of an open-end 53814
lease, the sales tax shall be calculated by the vendor on the 53815
basis of the total amount to be paid during the initial fixed term 53816
of the lease, and then for each subsequent renewal period as it 53817
comes due. 53818

(5) In the case of a transaction in which telecommunications 53819
service, mobile telecommunications service, or cable television 53820
service is sold in a bundled transaction with other distinct 53821
services for a single price that is not itemized, the entire price 53822
is subject to the taxes levied under sections 5739.02, 5739.021, 53823
5739.023, and 5739.026 of the Revised Code, unless the vendor can 53824
reasonably identify the nontaxable portion from its books and 53825
records kept in the regular course of business. Upon the request 53826
of the consumer, the vendor shall disclose to the consumer the 53827
selling price for the taxable services included in the selling 53828
price for the taxable and nontaxable services billed on an 53829
aggregated basis. The burden of proving any nontaxable charges is 53830
on the vendor. 53831

(6) As used in divisions (H)(3) and (4) of this section, 53832
"motor vehicle" has the same meaning as in section 4501.01 of the 53833
Revised Code, and "watercraft" includes an outdrive unit attached 53834
to the watercraft. 53835

(I) "Receipts" means the total amount of the prices of the 53836
sales of vendors, provided that cash discounts allowed and taken 53837
on sales at the time they are consummated are not included, minus 53838
any amount deducted as a bad debt pursuant to section 5739.121 of 53839

the Revised Code. "Receipts" does not include the sale price of 53840
property returned or services rejected by consumers when the full 53841
sale price and tax are refunded either in cash or by credit. 53842

(J) "Place of business" means any location at which a person 53843
engages in business. 53844

(K) "Premises" includes any real property or portion thereof 53845
upon which any person engages in selling tangible personal 53846
property at retail or making retail sales and also includes any 53847
real property or portion thereof designated for, or devoted to, 53848
use in conjunction with the business engaged in by such person. 53849

(L) "Casual sale" means a sale of an item of tangible 53850
personal property that was obtained by the person making the sale, 53851
through purchase or otherwise, for the person's own use and was 53852
previously subject to any state's taxing jurisdiction on its sale 53853
or use, and includes such items acquired for the seller's use that 53854
are sold by an auctioneer employed directly by the person for such 53855
purpose, provided the location of such sales is not the 53856
auctioneer's permanent place of business. As used in this 53857
division, "permanent place of business" includes any location 53858
where such auctioneer has conducted more than two auctions during 53859
the year. 53860

(M) "Hotel" means every establishment kept, used, maintained, 53861
advertised, or held out to the public to be a place where sleeping 53862
accommodations are offered to guests, in which five or more rooms 53863
are used for the accommodation of such guests, whether the rooms 53864
are in one or several structures. 53865

(N) "Transient guests" means persons occupying a room or 53866
rooms for sleeping accommodations for less than thirty consecutive 53867
days. 53868

(O) "Making retail sales" means the effecting of transactions 53869
wherein one party is obligated to pay the price and the other 53870

party is obligated to provide a service or to transfer title to or 53871
possession of the item sold. "Making retail sales" does not 53872
include the preliminary acts of promoting or soliciting the retail 53873
sales, other than the distribution of printed matter which 53874
displays or describes and prices the item offered for sale, nor 53875
does it include delivery of a predetermined quantity of tangible 53876
personal property or transportation of property or personnel to or 53877
from a place where a service is performed, regardless of whether 53878
the vendor is a delivery vendor. 53879

(P) "Used directly in the rendition of a public utility 53880
service" means that property which is to be incorporated into and 53881
will become a part of the consumer's production, transmission, 53882
transportation, or distribution system and that retains its 53883
classification as tangible personal property after such 53884
incorporation; fuel or power used in the production, transmission, 53885
transportation, or distribution system; and tangible personal 53886
property used in the repair and maintenance of the production, 53887
transmission, transportation, or distribution system, including 53888
only such motor vehicles as are specially designed and equipped 53889
for such use. Tangible personal property and services used 53890
primarily in providing highway transportation for hire are not 53891
used in providing a public utility service as defined in this 53892
division. 53893

(Q) "Refining" means removing or separating a desirable 53894
product from raw or contaminated materials by distillation or 53895
physical, mechanical, or chemical processes. 53896

(R) "Assembly" and "assembling" mean attaching or fitting 53897
together parts to form a product, but do not include packaging a 53898
product. 53899

(S) "Manufacturing operation" means a process in which 53900
materials are changed, converted, or transformed into a different 53901
state or form from which they previously existed and includes 53902

refining materials, assembling parts, and preparing raw materials 53903
and parts by mixing, measuring, blending, or otherwise committing 53904
such materials or parts to the manufacturing process. 53905

"Manufacturing operation" does not include packaging. 53906

(T) "Fiscal officer" means, with respect to a regional 53907
transit authority, the secretary-treasurer thereof, and with 53908
respect to a county that is a transit authority, the fiscal 53909
officer of the county transit board if one is appointed pursuant 53910
to section 306.03 of the Revised Code or the county auditor if the 53911
board of county commissioners operates the county transit system. 53912

(U) "Transit authority" means a regional transit authority 53913
created pursuant to section 306.31 of the Revised Code or a county 53914
in which a county transit system is created pursuant to section 53915
306.01 of the Revised Code. For the purposes of this chapter, a 53916
transit authority must extend to at least the entire area of a 53917
single county. A transit authority that includes territory in more 53918
than one county must include all the area of the most populous 53919
county that is a part of such transit authority. County population 53920
shall be measured by the most recent census taken by the United 53921
States census bureau. 53922

(V) "Legislative authority" means, with respect to a regional 53923
transit authority, the board of trustees thereof, and with respect 53924
to a county that is a transit authority, the board of county 53925
commissioners. 53926

(W) "Territory of the transit authority" means all of the 53927
area included within the territorial boundaries of a transit 53928
authority as they from time to time exist. Such territorial 53929
boundaries must at all times include all the area of a single 53930
county or all the area of the most populous county that is a part 53931
of such transit authority. County population shall be measured by 53932
the most recent census taken by the United States census bureau. 53933

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where

the service provider receives data or information and studies,	53964
alters, analyzes, interprets, or adjusts such material;	53965
(b) Analyzing business policies and procedures;	53966
(c) Identifying management information needs;	53967
(d) Feasibility studies, including economic and technical	53968
analysis of existing or potential computer hardware or software	53969
needs and alternatives;	53970
(e) Designing policies, procedures, and custom software for	53971
collecting business information, and determining how data should	53972
be summarized, sequenced, formatted, processed, controlled, and	53973
reported so that it will be meaningful to management;	53974
(f) Developing policies and procedures that document how	53975
business events and transactions are to be authorized, executed,	53976
and controlled;	53977
(g) Testing of business procedures;	53978
(h) Training personnel in business procedure applications;	53979
(i) Providing credit information to users of such information	53980
by a consumer reporting agency, as defined in the "Fair Credit	53981
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	53982
as hereafter amended, including but not limited to gathering,	53983
organizing, analyzing, recording, and furnishing such information	53984
by any oral, written, graphic, or electronic medium;	53985
(j) Providing debt collection services by any oral, written,	53986
graphic, or electronic means.	53987
The services listed in divisions (Y)(2)(a) to (j) of this	53988
section are not automatic data processing or computer services.	53989
(Z) "Highway transportation for hire" means the	53990
transportation of personal property belonging to others for	53991
consideration by any of the following:	53992

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA) "Telecommunications service" means the transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media. "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, ~~but~~ and other 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. "Telecommunications service" does not include any of the following:

(1) Sales of incoming or outgoing wide area transmission service or wide area transmission type service, including eight

hundred or eight-hundred-type service, to the person contracting 54024
for the receipt of that service; 54025

(2) Sales of private communications service to the person 54026
contracting for the receipt of that service that entitles the 54027
purchaser to exclusive or priority use of a communications channel 54028
or group of channels between exchanges; 54029

(3) Sales of telecommunications service billed to persons 54030
before January 1, 2004, by telephone companies subject to the 54031
excise tax imposed by Chapter 5727. of the Revised Code; 54032

(4) Sales of telecommunications service to a provider of 54033
telecommunications service or of mobile telecommunications 54034
service, including access services, for use in providing 54035
telecommunications service or mobile telecommunications service; 54036

(5) Value-added nonvoice services in which computer 54037
processing applications are used to act on the form, content, 54038
code, or protocol of the information to be transmitted; 54039

(6) Transmission of interactive video programming by a cable 54040
television system as defined in section 505.90 of the Revised 54041
Code; 54042

(7) After July 31, 2002, mobile telecommunications service. 54043

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" 54044
means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ 54045
articles of clothing, or other fabric items that belong to others 54046
and ~~are used in a trade or business~~ supplying towels, linens, 54047
articles of clothing, or other fabric items. "Laundry and dry 54048
cleaning services" does not include the provision of self-service 54049
facilities for use by consumers to remove soil or dirt from 54050
towels, linens, articles of clothing, or other fabric items. 54051

(CC) "Magazines distributed as controlled circulation 54052
publications" means magazines containing at least twenty-four 54053

pages, at least twenty-five per cent editorial content, issued at 54054
regular intervals four or more times a year, and circulated 54055
without charge to the recipient, provided that such magazines are 54056
not owned or controlled by individuals or business concerns which 54057
conduct such publications as an auxiliary to, and essentially for 54058
the advancement of the main business or calling of, those who own 54059
or control them. 54060

(DD) "Landscaping and lawn care service" means the services 54061
of planting, seeding, sodding, removing, cutting, trimming, 54062
pruning, mulching, aerating, applying chemicals, watering, 54063
fertilizing, and providing similar services to establish, promote, 54064
or control the growth of trees, shrubs, flowers, grass, ground 54065
cover, and other flora, or otherwise maintaining a lawn or 54066
landscape grown or maintained by the owner for ornamentation or 54067
other nonagricultural purpose. However, "landscaping and lawn care 54068
service" does not include the providing of such services by a 54069
person who has less than five thousand dollars in sales of such 54070
services during the calendar year. 54071

(EE) "Private investigation and security service" means the 54072
performance of any activity for which the provider of such service 54073
is required to be licensed pursuant to Chapter 4749. of the 54074
Revised Code, or would be required to be so licensed in performing 54075
such services in this state, and also includes the services of 54076
conducting polygraph examinations and of monitoring or overseeing 54077
the activities on or in, or the condition of, the consumer's home, 54078
business, or other facility by means of electronic or similar 54079
monitoring devices. "Private investigation and security service" 54080
does not include special duty services provided by off-duty police 54081
officers, deputy sheriffs, and other peace officers regularly 54082
employed by the state or a political subdivision. 54083

(FF) "Information services" means providing conversation, 54084
giving consultation or advice, playing or making a voice or other 54085

recording, making or keeping a record of the number of callers, 54086
and any other service provided to a consumer by means of a nine 54087
hundred telephone call, except when the nine hundred telephone 54088
call is the means by which the consumer makes a contribution to a 54089
recognized charity. 54090

(GG) "Research and development" means designing, creating, or 54091
formulating new or enhanced products, equipment, or manufacturing 54092
processes, and also means conducting scientific or technological 54093
inquiry and experimentation in the physical sciences with the goal 54094
of increasing scientific knowledge which may reveal the bases for 54095
new or enhanced products, equipment, or manufacturing processes. 54096

(HH) "Qualified research and development equipment" means 54097
capitalized tangible personal property, and leased personal 54098
property that would be capitalized if purchased, used by a person 54099
primarily to perform research and development. Tangible personal 54100
property primarily used in testing, as defined in division (A)(4) 54101
of section 5739.011 of the Revised Code, or used for recording or 54102
storing test results, is not qualified research and development 54103
equipment unless such property is primarily used by the consumer 54104
in testing the product, equipment, or manufacturing process being 54105
created, designed, or formulated by the consumer in the research 54106
and development activity or in recording or storing such test 54107
results. 54108

(II) "Building maintenance and janitorial service" means 54109
cleaning the interior or exterior of a building and any tangible 54110
personal property located therein or thereon, including any 54111
services incidental to such cleaning for which no separate charge 54112
is made. However, "building maintenance and janitorial service" 54113
does not include the providing of such service by a person who has 54114
less than five thousand dollars in sales of such service during 54115
the calendar year. 54116

(JJ) "Employment service" means providing or supplying 54117

personnel, on a temporary or long-term basis, to perform work or 54118
labor under the supervision or control of another, when the 54119
personnel so supplied receive their wages, salary, or other 54120
compensation from the provider of the service. "Employment 54121
service" does not include: 54122

(1) Acting as a contractor or subcontractor, where the 54123
personnel performing the work are not under the direct control of 54124
the purchaser. 54125

(2) Medical and health care services. 54126

(3) Supplying personnel to a purchaser pursuant to a contract 54127
of at least one year between the service provider and the 54128
purchaser that specifies that each employee covered under the 54129
contract is assigned to the purchaser on a permanent basis. 54130

(4) Transactions between members of an affiliated group, as 54131
defined in division (B)(3)(e) of this section. 54132

(KK) "Employment placement service" means locating or finding 54133
employment for a person or finding or locating an employee to fill 54134
an available position. 54135

(LL) "Exterminating service" means eradicating or attempting 54136
to eradicate vermin infestations from a building or structure, or 54137
the area surrounding a building or structure, and includes 54138
activities to inspect, detect, or prevent vermin infestation of a 54139
building or structure. 54140

(MM) "Physical fitness facility service" means all 54141
transactions by which a membership is granted, maintained, or 54142
renewed, including initiation fees, membership dues, renewal fees, 54143
monthly minimum fees, and other similar fees and dues, by a 54144
physical fitness facility such as an athletic club, health spa, or 54145
gymnasium, which entitles the member to use the facility for 54146
physical exercise. 54147

(NN) "Recreation and sports club service" means all 54148
transactions by which a membership is granted, maintained, or 54149
renewed, including initiation fees, membership dues, renewal fees, 54150
monthly minimum fees, and other similar fees and dues, by a 54151
recreation and sports club, which entitles the member to use the 54152
facilities of the organization. "Recreation and sports club" means 54153
an organization that has ownership of, or controls or leases on a 54154
continuing, long-term basis, the facilities used by its members 54155
and includes an aviation club, gun or shooting club, yacht club, 54156
card club, swimming club, tennis club, golf club, country club, 54157
riding club, amateur sports club, or similar organization. 54158

(OO) "Livestock" means farm animals commonly raised for food 54159
or food production, and includes but is not limited to cattle, 54160
sheep, goats, swine, and poultry. "Livestock" does not include 54161
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 54162
animals for use in laboratories or for exhibition, or other 54163
animals not commonly raised for food or food production. 54164

(PP) "Livestock structure" means a building or structure used 54165
exclusively for the housing, raising, feeding, or sheltering of 54166
livestock, and includes feed storage or handling structures and 54167
structures for livestock waste handling. 54168

(QQ) "Horticulture" means the growing, cultivation, and 54169
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 54170
and nursery stock. As used in this division, "nursery stock" has 54171
the same meaning as in section 927.51 of the Revised Code. 54172

(RR) "Horticulture structure" means a building or structure 54173
used exclusively for the commercial growing, raising, or 54174
overwintering of horticultural products, and includes the area 54175
used for stocking, storing, and packing horticultural products 54176
when done in conjunction with the production of those products. 54177

(SS) "Newspaper" means an unbound publication bearing a title 54178

or name that is regularly published, at least as frequently as 54179
biweekly, and distributed from a fixed place of business to the 54180
public in a specific geographic area, and that contains a 54181
substantial amount of news matter of international, national, or 54182
local events of interest to the general public. 54183

(TT) "Professional racing team" means a person that employs 54184
at least twenty full-time employees for the purpose of conducting 54185
a motor vehicle racing business for profit. The person must 54186
conduct the business with the purpose of racing one or more motor 54187
racing vehicles in at least ten competitive professional racing 54188
events each year that comprise all or part of a motor racing 54189
series sanctioned by one or more motor racing sanctioning 54190
organizations. A "motor racing vehicle" means a vehicle for which 54191
the chassis, engine, and parts are designed exclusively for motor 54192
racing, and does not include a stock or production model vehicle 54193
that may be modified for use in racing. For the purposes of this 54194
division: 54195

(1) A "competitive professional racing event" is a motor 54196
vehicle racing event sanctioned by one or more motor racing 54197
sanctioning organizations, at which aggregate cash prizes in 54198
excess of eight hundred thousand dollars are awarded to the 54199
competitors. 54200

(2) "Full-time employee" means an individual who is employed 54201
for consideration for thirty-five or more hours a week, or who 54202
renders any other standard of service generally accepted by custom 54203
or specified by contract as full-time employment. 54204

(UU)(1) "Prepaid authorization number" means a numeric or 54205
alphanumeric combination that represents a prepaid account that 54206
can be used by the account holder solely to obtain 54207
telecommunications service, and includes any renewals or increases 54208
in the prepaid account. 54209

(2) "Prepaid telephone calling card" means a tangible item 54210
that contains a prepaid authorization number that can be used 54211
solely to obtain telecommunications service, and includes any 54212
renewals or increases in the prepaid account. 54213

(VV) "Lease" means any transfer for a consideration of the 54214
possession of and right to use, but not title to, tangible 54215
personal property for a fixed period of time greater than thirty 54216
days or for an open-ended period of time with a minimum fixed 54217
period of more than thirty days. 54218

(WW) "Mobile telecommunications service" has the same meaning 54219
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 54220
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and 54221
includes related fees and ancillary services, including universal 54222
service fees, detailed billing service, directory assistance, 54223
service initiation, voice mail service, and vertical services, 54224
such as caller ID and three-way calling. 54225

(XX) "Certified service provider" has the same meaning as in 54226
section 5740.01 of the Revised Code. 54227

(YY) "Satellite television service" means any transmission of 54228
video or other programming service to consumers, and includes all 54229
service and rental charges, premium channels or other special 54230
services, installation and repair service charges, and any other 54231
charges having any connection with the provision of the satellite 54232
television service. 54233

Sec. 5739.011. (A) As used in this section: 54234

(1) "Manufacturer" means a person who is engaged in 54235
manufacturing, processing, assembling, or refining a product for 54236
sale. 54237

(2) "Manufacturing facility" means a single location where a 54238
manufacturing operation is conducted, including locations 54239

consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

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(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

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(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

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(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

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(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

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(B) For purposes of division (E)~~(9)~~(8) of section 5739.01 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

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(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;

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(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public

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highways, equipment used in intraplant or interplant transfers of 54271
work in process where the plant or plants between which such 54272
transfers occur are manufacturing facilities operated by the same 54273
person; 54274

(3) Catalysts, solvents, water, acids, oil, and similar 54275
consumables that interact with the product and that are an 54276
integral part of the manufacturing operation; 54277

(4) Machinery, equipment, and other tangible personal 54278
property used during the manufacturing operation that control, 54279
physically support, produce power for, lubricate, or are otherwise 54280
necessary for the functioning of production machinery and 54281
equipment and the continuation of the manufacturing operation; 54282

(5) Machinery, equipment, fuel, power, material, parts, and 54283
other tangible personal property used to manufacture machinery, 54284
equipment, or other tangible personal property used in 54285
manufacturing a product for sale; 54286

(6) Machinery, equipment, and other tangible personal 54287
property used by a manufacturer to test raw materials, the product 54288
being manufactured, or the completed product; 54289

(7) Machinery and equipment used to handle or temporarily 54290
store scrap that is intended to be reused in the manufacturing 54291
operation at the same manufacturing facility; 54292

(8) Coke, gas, water, steam, and similar substances used in 54293
the manufacturing operation; machinery and equipment used for, and 54294
fuel consumed in, producing or extracting those substances; 54295
machinery, equipment, and other tangible personal property used to 54296
treat, filter, pump, or otherwise make the substance suitable for 54297
use in the manufacturing operation; and machinery and equipment 54298
used for, and fuel consumed in, producing electricity for use in 54299
the manufacturing operation; 54300

(9) Machinery, equipment, and other tangible personal 54301

property used to transport or transmit electricity, coke, gas, 54302
water, steam, or similar substances used in the manufacturing 54303
operation from the point of generation, if produced by the 54304
manufacturer, or from the point where the substance enters the 54305
manufacturing facility, if purchased by the manufacturer, to the 54306
manufacturing operation; 54307

(10) Machinery, equipment, and other tangible personal 54308
property that treats, filters, cools, refines, or otherwise 54309
renders water, steam, acid, oil, solvents, or similar substances 54310
used in the manufacturing operation reusable, provided that the 54311
substances are intended for reuse and not for disposal, sale, or 54312
transportation from the manufacturing facility; 54313

(11) Parts, components, and repair and installation services 54314
for items described in division (B) of this section. 54315

(C) For purposes of division (E)~~(9)~~(8) of section 5739.01 of 54316
the Revised Code, the "thing transferred" does not include any of 54317
the following: 54318

(1) Tangible personal property used in administrative, 54319
personnel, security, inventory control, record-keeping, ordering, 54320
billing, or similar functions; 54321

(2) Tangible personal property used in storing raw materials 54322
or parts prior to the commencement of the manufacturing operation 54323
or used to handle or store a completed product, including storage 54324
that actively maintains a completed product in a marketable state 54325
or form; 54326

(3) Tangible personal property used to handle or store scrap 54327
or waste intended for disposal, sale, or other disposition, other 54328
than reuse in the manufacturing operation at the same 54329
manufacturing facility; 54330

(4) Tangible personal property that is or is to be 54331
incorporated into realty; 54332

(5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;

(6) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation;

(7) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation;

(8) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility;

(9) Motor vehicles registered for operation on public highways.

(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.

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 54363
property taxes, permitted under constitutional limitations, and 54364
from other sources, for the support of local governmental 54365
functions, and for the purpose of reimbursing the state for the 54366
expense of administering this chapter, an excise tax is hereby 54367
levied on each retail sale made in this state. 54368

(A) The tax shall be collected pursuant to the schedules in 54369
section 5739.025 of the Revised Code, provided that on and after 54370
July 1, 2003, and on or before June 30, 2005, the rate of tax 54371
shall be six per cent. 54372

The tax applies and is collectible when the sale is made, 54373
regardless of the time when the price is paid or delivered. 54374

In the case of a sale, the price of which consists in whole 54375
or in part of rentals for the use of the thing transferred, the 54376
tax, as regards those rentals, shall be measured by the 54377
installments of those rentals. 54378

In the case of a sale of a service defined under division 54379
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 54380
which consists in whole or in part of a membership for the receipt 54381
of the benefit of the service, the tax applicable to the sale 54382
shall be measured by the installments thereof. 54383

(B) The tax does not apply to the following: 54384

(1) Sales to the state or any of its political subdivisions, 54385
or to any other state or its political subdivisions if the laws of 54386
that state exempt from taxation sales made to this state and its 54387
political subdivisions; 54388

(2) Sales of food for human consumption off the premises 54389
where sold; 54390

(3) Sales of food sold to students only in a cafeteria, 54391
dormitory, fraternity, or sorority maintained in a private, 54392

public, or parochial school, college, or university;	54393
(4) Sales of newspapers and of magazine subscriptions and	54394
sales or transfers of magazines distributed as controlled	54395
circulation publications;	54396
(5) The furnishing, preparing, or serving of meals without	54397
charge by an employer to an employee provided the employer records	54398
the meals as part compensation for services performed or work	54399
done;	54400
(6) Sales of motor fuel upon receipt, use, distribution, or	54401
sale of which in this state a tax is imposed by the law of this	54402
state, but this exemption shall not apply to the sale of motor	54403
fuel on which a refund of the tax is allowable under section	54404
5735.14 of the Revised Code; and the tax commissioner may deduct	54405
the amount of tax levied by this section applicable to the price	54406
of motor fuel when granting a refund of motor fuel tax pursuant to	54407
section 5735.14 of the Revised Code and shall cause the amount	54408
deducted to be paid into the general revenue fund of this state;	54409
(7) Sales of natural gas by a natural gas company, of water	54410
by a water-works company, or of steam by a heating company, if in	54411
each case the thing sold is delivered to consumers through pipes	54412
or conduits, and all sales of communications services by a	54413
telephone or telegraph company, all terms as defined in section	54414
5727.01 of the Revised Code;	54415
(8) Casual sales by a person, or auctioneer employed directly	54416
by the person to conduct such sales, except as to such sales of	54417
motor vehicles, watercraft or outboard motors required to be	54418
titled under section 1548.06 of the Revised Code, watercraft	54419
documented with the United States coast guard, snowmobiles, and	54420
all-purpose vehicles as defined in section 4519.01 of the Revised	54421
Code;	54422
(9) Sales of services or tangible personal property, other	54423

than motor vehicles, mobile homes, and manufactured homes, by 54424
churches, organizations exempt from taxation under section 54425
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 54426
organizations operated exclusively for charitable purposes as 54427
defined in division (B)(12) of this section, provided that the 54428
number of days on which such tangible personal property or 54429
services, other than items never subject to the tax, are sold does 54430
not exceed six in any calendar year. If the number of days on 54431
which such sales are made exceeds six in any calendar year, the 54432
church or organization shall be considered to be engaged in 54433
business and all subsequent sales by it shall be subject to the 54434
tax. In counting the number of days, all sales by groups within a 54435
church or within an organization shall be considered to be sales 54436
of that church or organization, except that sales made by separate 54437
student clubs and other groups of students of a primary or 54438
secondary school, and sales made by a parent-teacher association, 54439
booster group, or similar organization that raises money to 54440
support or fund curricular or extracurricular activities of a 54441
primary or secondary school, shall not be considered to be sales 54442
of such school, and sales by each such club, group, association, 54443
or organization shall be counted separately for purposes of the 54444
six-day limitation. This division does not apply to sales by a 54445
noncommercial educational radio or television broadcasting 54446
station. 54447

(10) Sales not within the taxing power of this state under 54448
the Constitution of the United States; 54449

(11) The Except for transactions that are sales under 54450
division (B)(3)(s) of section 5739.01 of the Revised Code, the 54451
transportation of persons or property, unless the transportation 54452
is by a private investigation and security service; 54453

(12) Sales of tangible personal property or services to 54454
churches, to organizations exempt from taxation under section 54455

501(c)(3) of the Internal Revenue Code of 1986, and to any other 54456
nonprofit organizations operated exclusively for charitable 54457
purposes in this state, no part of the net income of which inures 54458
to the benefit of any private shareholder or individual, and no 54459
substantial part of the activities of which consists of carrying 54460
on propaganda or otherwise attempting to influence legislation; 54461
sales to offices administering one or more homes for the aged or 54462
one or more hospital facilities exempt under section 140.08 of the 54463
Revised Code; and sales to organizations described in division (D) 54464
of section 5709.12 of the Revised Code. 54465

"Charitable purposes" means the relief of poverty; the 54466
improvement of health through the alleviation of illness, disease, 54467
or injury; the operation of an organization exclusively for the 54468
provision of professional, laundry, printing, and purchasing 54469
services to hospitals or charitable institutions; the operation of 54470
a home for the aged, as defined in section 5701.13 of the Revised 54471
Code; the operation of a radio or television broadcasting station 54472
that is licensed by the federal communications commission as a 54473
noncommercial educational radio or television station; the 54474
operation of a nonprofit animal adoption service or a county 54475
humane society; the promotion of education by an institution of 54476
learning that maintains a faculty of qualified instructors, 54477
teaches regular continuous courses of study, and confers a 54478
recognized diploma upon completion of a specific curriculum; the 54479
operation of a parent-teacher association, booster group, or 54480
similar organization primarily engaged in the promotion and 54481
support of the curricular or extracurricular activities of a 54482
primary or secondary school; the operation of a community or area 54483
center in which presentations in music, dramatics, the arts, and 54484
related fields are made in order to foster public interest and 54485
education therein; the production of performances in music, 54486
dramatics, and the arts; or the promotion of education by an 54487
organization engaged in carrying on research in, or the 54488

dissemination of, scientific and technological knowledge and 54489
information primarily for the public. 54490

Nothing in this division shall be deemed to exempt sales to 54491
any organization for use in the operation or carrying on of a 54492
trade or business, or sales to a home for the aged for use in the 54493
operation of independent living facilities as defined in division 54494
(A) of section 5709.12 of the Revised Code. 54495

(13) Building and construction materials and services sold to 54496
construction contractors for incorporation into a structure or 54497
improvement to real property under a construction contract with 54498
this state or a political subdivision of this state, or with the 54499
United States government or any of its agencies; building and 54500
construction materials and services sold to construction 54501
contractors for incorporation into a structure or improvement to 54502
real property that are accepted for ownership by this state or any 54503
of its political subdivisions, or by the United States government 54504
or any of its agencies at the time of completion of the structures 54505
or improvements; building and construction materials sold to 54506
construction contractors for incorporation into a horticulture 54507
structure or livestock structure for a person engaged in the 54508
business of horticulture or producing livestock; building 54509
materials and services sold to a construction contractor for 54510
incorporation into a house of public worship or religious 54511
education, or a building used exclusively for charitable purposes 54512
under a construction contract with an organization whose purpose 54513
is as described in division (B)(12) of this section; building 54514
materials and services sold to a construction contractor for 54515
incorporation into a building under a construction contract with 54516
an organization exempt from taxation under section 501(c)(3) of 54517
the Internal Revenue Code of 1986 when the building is to be used 54518
exclusively for the organization's exempt purposes; building and 54519
construction materials sold for incorporation into the original 54520

construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division (E)(2) or ~~(9)~~(8) of section 5739.01 of the Revised Code, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in division (B)(16) of this section, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs dispensed by a licensed pharmacist upon the order of a licensed health professional authorized to prescribe drugs to a human being, as the term "licensed health professional authorized to prescribe drugs" is defined in section 4729.01 of the Revised Code; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with end-stage renal disease; hospital beds when purchased for use by persons with medical problems for medical purposes; and oxygen and oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19)(a) Sales of artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of the human body; crutches or other devices to aid human

perambulation; and items of tangible personal property used to 54585
supplement impaired functions of the human body such as 54586
respiration, hearing, or elimination; 54587

(b) Sales of wheelchairs; items incorporated into or used in 54588
conjunction with a motor vehicle for the purpose of transporting 54589
wheelchairs, other than transportation conducted in connection 54590
with the sale or delivery of wheelchairs; and items incorporated 54591
into or used in conjunction with a motor vehicle that are 54592
specifically designed to assist a person with a disability to 54593
access or operate the motor vehicle. As used in this division, 54594
"person with a disability" means any person who has lost the use 54595
of one or both legs or one or both arms, who is blind, deaf, or 54596
disabled to the extent that the person is unable to move about 54597
without the aid of crutches or a wheelchair, or whose mobility is 54598
restricted by a permanent cardiovascular, pulmonary, or other 54599
disabling condition. 54600

(c) No exemption under this division shall be allowed for 54601
nonprescription drugs, medicines, or remedies; items or devices 54602
used to supplement vision; items or devices whose function is 54603
solely or primarily cosmetic; or physical fitness equipment. This 54604
division does not apply to sales to a physician or medical 54605
facility for use in the treatment of a patient. 54606

(20) Sales of emergency and fire protection vehicles and 54607
equipment to nonprofit organizations for use solely in providing 54608
fire protection and emergency services, including trauma care and 54609
emergency medical services, for political subdivisions of the 54610
state; 54611

(21) Sales of tangible personal property manufactured in this 54612
state, if sold by the manufacturer in this state to a retailer for 54613
use in the retail business of the retailer outside of this state 54614
and if possession is taken from the manufacturer by the purchaser 54615
within this state for the sole purpose of immediately removing the 54616

same from this state in a vehicle owned by the purchaser; 54617

(22) Sales of services provided by the state or any of its 54618
political subdivisions, agencies, instrumentalities, institutions, 54619
or authorities, or by governmental entities of the state or any of 54620
its political subdivisions, agencies, instrumentalities, 54621
institutions, or authorities; 54622

(23) Sales of motor vehicles to nonresidents of this state 54623
upon the presentation of an affidavit executed in this state by 54624
the nonresident purchaser affirming that the purchaser is a 54625
nonresident of this state, that possession of the motor vehicle is 54626
taken in this state for the sole purpose of immediately removing 54627
it from this state, that the motor vehicle will be permanently 54628
titled and registered in another state, and that the motor vehicle 54629
will not be used in this state; 54630

(24) Sales to persons engaged in the preparation of eggs for 54631
sale of tangible personal property used or consumed directly in 54632
such preparation, including such tangible personal property used 54633
for cleaning, sanitizing, preserving, grading, sorting, and 54634
classifying by size; packages, including material and parts for 54635
packages, and machinery, equipment, and material for use in 54636
packaging eggs for sale; and handling and transportation equipment 54637
and parts therefor, except motor vehicles licensed to operate on 54638
public highways, used in intraplant or interplant transfers or 54639
shipment of eggs in the process of preparation for sale, when the 54640
plant or plants within or between which such transfers or 54641
shipments occur are operated by the same person. "Packages" 54642
includes containers, cases, baskets, flats, fillers, filler flats, 54643
cartons, closure materials, labels, and labeling materials, and 54644
"packaging" means placing therein. 54645

(25)(a) Sales of water to a consumer for residential use, 54646
except the sale of bottled water, distilled water, mineral water, 54647
carbonated water, or ice; 54648

(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.	54649 54650 54651 54652
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	54653 54654
(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:	54655 54656 54657 54658
(a) To prepare food for human consumption for sale;	54659
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	54660 54661 54662 54663
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	54664 54665
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	54666 54667
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	54668 54669 54670 54671
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	54672 54673 54674
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	54675 54676 54677
(32) The sale, lease, repair, and maintenance of, parts for,	54678

or items attached to or incorporated in, motor vehicles that are 54679
primarily used for transporting tangible personal property by a 54680
person engaged in highway transportation for hire; 54681

(33) Sales to the state headquarters of any veterans' 54682
organization in this state that is either incorporated and issued 54683
a charter by the congress of the United States or is recognized by 54684
the United States veterans administration, for use by the 54685
headquarters; 54686

(34) Sales to a telecommunications service vendor, mobile 54687
telecommunications service vendor, or satellite television service 54688
vendor of tangible personal property and services used directly 54689
and primarily in transmitting, receiving, switching, or recording 54690
any interactive, one- or two-way electromagnetic communications, 54691
including voice, image, data, and information, through the use of 54692
any medium, including, but not limited to, poles, wires, cables, 54693
switching equipment, computers, and record storage devices and 54694
media, and component parts for the tangible personal property. The 54695
exemption provided in division (B)(34) of this section shall be in 54696
lieu of all other exceptions under division (E)(2) of section 54697
5739.01 of the Revised Code to which a ~~telecommunications service~~ 54698
the vendor may otherwise be entitled based upon the use of the 54699
thing purchased in providing the telecommunications, mobile 54700
telecommunications, or satellite television service. 54701

(35) Sales of investment metal bullion and investment coins. 54702
"Investment metal bullion" means any elementary precious metal 54703
that has been put through a process of smelting or refining, 54704
including, but not limited to, gold, silver, platinum, and 54705
palladium, and which is in such state or condition that its value 54706
depends upon its content and not upon its form. "Investment metal 54707
bullion" does not include fabricated precious metal that has been 54708
processed or manufactured for one or more specific and customary 54709
industrial, professional, or artistic uses. "Investment coins" 54710

means numismatic coins or other forms of money and legal tender 54711
manufactured of gold, silver, platinum, palladium, or other metal 54712
under the laws of the United States or any foreign nation with a 54713
fair market value greater than any statutory or nominal value of 54714
such coins. 54715

(36)(a) Sales where the purpose of the consumer is to use or 54716
consume the things transferred in making retail sales and 54717
consisting of newspaper inserts, catalogues, coupons, flyers, gift 54718
certificates, or other advertising material that prices and 54719
describes tangible personal property offered for retail sale. 54720

(b) Sales to direct marketing vendors of preliminary 54721
materials such as photographs, artwork, and typesetting that will 54722
be used in printing advertising material; of printed matter that 54723
offers free merchandise or chances to win sweepstake prizes and 54724
that is mailed to potential customers with advertising material 54725
described in division (B)(36)(a) of this section; and of equipment 54726
such as telephones, computers, facsimile machines, and similar 54727
tangible personal property primarily used to accept orders for 54728
direct marketing retail sales. 54729

(c) Sales of automatic food vending machines that preserve 54730
food with a shelf life of forty-five days or less by refrigeration 54731
and dispense it to the consumer. 54732

For purposes of division (B)(36) of this section, "direct 54733
marketing" means the method of selling where consumers order 54734
tangible personal property by United States mail, delivery 54735
service, or telecommunication and the vendor delivers or ships the 54736
tangible personal property sold to the consumer from a warehouse, 54737
catalogue distribution center, or similar fulfillment facility by 54738
means of the United States mail, delivery service, or common 54739
carrier. 54740

(37) Sales to a person engaged in the business of 54741

horticulture or producing livestock of materials to be 54742
incorporated into a horticulture structure or livestock structure; 54743

~~(38) The sale of a motor vehicle that is used exclusively for 54744
a vanpool ridesharing arrangement to persons participating in the 54745
vanpool ridesharing arrangement when the vendor is selling the 54746
vehicle pursuant to a contract between the vendor and the 54747
department of transportation; 54748~~

~~(39)~~ Sales of personal computers, computer monitors, computer 54749
keyboards, modems, and other peripheral computer equipment to an 54750
individual who is licensed or certified to teach in an elementary 54751
or a secondary school in this state for use by that individual in 54752
preparation for teaching elementary or secondary school students; 54753

~~(40)~~(39) Sales to a professional racing team of any of the 54754
following: 54755

(a) Motor racing vehicles; 54756

(b) Repair services for motor racing vehicles; 54757

(c) Items of property that are attached to or incorporated in 54758
motor racing vehicles, including engines, chassis, and all other 54759
components of the vehicles, and all spare, replacement, and 54760
rebuilt parts or components of the vehicles; except not including 54761
tires, consumable fluids, paint, and accessories consisting of 54762
instrumentation sensors and related items added to the vehicle to 54763
collect and transmit data by means of telemetry and other forms of 54764
communication. 54765

~~(41)~~(40) Sales of used manufactured homes and used mobile 54766
homes, as defined in section 5739.0210 of the Revised Code, made 54767
on or after January 1, 2000; 54768

~~(42)~~(41) Sales of tangible personal property and services to 54769
a provider of electricity used or consumed directly and primarily 54770
in generating, transmitting, or distributing electricity for use 54771

by others, including property that is or is to be incorporated 54772
into and will become a part of the consumer's production, 54773
transmission, or distribution system and that retains its 54774
classification as tangible personal property after incorporation; 54775
fuel or power used in the production, transmission, or 54776
distribution of electricity; and tangible personal property and 54777
services used in the repair and maintenance of the production, 54778
transmission, or distribution system, including only those motor 54779
vehicles as are specially designed and equipped for such use. The 54780
exemption provided in this division shall be in lieu of all other 54781
exceptions in division (E)(2) of section 5739.01 of the Revised 54782
Code to which a provider of electricity may otherwise be entitled 54783
based on the use of the tangible personal property or service 54784
purchased in generating, transmitting, or distributing 54785
electricity. 54786

(42) Sales to a person providing services under division 54787
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 54788
personal property and services used directly and primarily in 54789
providing taxable services under that section. 54790

For the purpose of the proper administration of this chapter, 54791
and to prevent the evasion of the tax, it is presumed that all 54792
sales made in this state are subject to the tax until the contrary 54793
is established. 54794

As used in this section, except in division (B)(16) of this 54795
section, "food" includes cereals and cereal products, milk and 54796
milk products including ice cream, meat and meat products, fish 54797
and fish products, eggs and egg products, vegetables and vegetable 54798
products, fruits, fruit products, and pure fruit juices, 54799
condiments, sugar and sugar products, coffee and coffee 54800
substitutes, tea, and cocoa and cocoa products. It does not 54801
include: spirituous liquors, wine, mixed beverages, or beer; soft 54802
drinks; sodas and beverages that are ordinarily dispensed at or in 54803

connection with bars and soda fountains, other than coffee, tea, 54804
and cocoa; root beer and root beer extracts; malt and malt 54805
extracts; mineral oils, cod liver oils, and halibut liver oil; 54806
medicines, including tonics, vitamin preparations, and other 54807
products sold primarily for their medicinal properties; and water, 54808
including mineral, bottled, and carbonated waters, and ice. 54809

(C) The levy of this tax on retail sales of recreation and 54810
sports club service shall not prevent a municipal corporation from 54811
levying any tax on recreation and sports club dues or on any 54812
income generated by recreation and sports club dues. 54813

Sec. 5739.12. Each person who has or is required to have a 54814
vendor's license, on or before the twenty-third day of each month, 54815
shall make and file a return for the preceding month, on forms 54816
prescribed by the tax commissioner, and shall pay the tax shown on 54817
the return to be due. The commissioner may require a vendor that 54818
operates from multiple locations or has multiple vendor's licenses 54819
to report all tax liabilities on one consolidated return. The 54820
return shall show the amount of tax due from the vendor to the 54821
state for the period covered by the return and such other 54822
information as the commissioner deems necessary for the proper 54823
administration of this chapter. The commissioner may extend the 54824
time for making and filing returns and paying the tax, and may 54825
require that the return for the last month of any annual or 54826
semiannual period, as determined by the commissioner, be a 54827
reconciliation return detailing the vendor's sales activity for 54828
the preceding annual or semiannual period. The reconciliation 54829
return shall be filed by the last day of the month following the 54830
last month of the annual or semiannual period. The commissioner 54831
may remit all or any part of amounts or penalties that may become 54832
due under this chapter and may adopt rules relating thereto. Such 54833
return shall be filed by mailing it to the tax commissioner, 54834
together with payment of the amount of tax shown to be due thereon 54835

after deduction of any discount provided for under this section. 54836
Remittance shall be made payable to the treasurer of state. The 54837
return shall be considered filed when received by the tax 54838
commissioner, and the payment shall be considered made when 54839
received by the tax commissioner or when credited to an account 54840
designated by the treasurer of state or the tax commissioner. 54841

If the return is filed and the amount of tax shown thereon to 54842
be due is paid on or before the date such return is required to be 54843
filed, the vendor shall be entitled to a discount of ~~three-fourths~~ 54844
one and one-tenth of one per cent of the amount shown to be due on 54845
the return, but a vendor that has selected a certified service 54846
provider as its agent shall not be entitled to the discount. 54847
Amounts paid to the clerk of courts pursuant to section 4505.06 of 54848
the Revised Code shall be subject to the ~~three-fourths~~ one and 54849
one-tenth of one per cent discount. The discount shall be in 54850
consideration for prompt payment to the clerk of courts and for 54851
other services performed by the vendor in the collection of the 54852
tax. 54853

Upon application to the commissioner, a vendor who is 54854
required to file monthly returns may be relieved of the 54855
requirement to report and pay the actual tax due, provided that 54856
the vendor agrees to remit to the tax commissioner payment of not 54857
less than an amount determined by the commissioner to be the 54858
average monthly tax liability of the vendor, based upon a review 54859
of the returns or other information pertaining to such vendor for 54860
a period of not less than six months nor more than two years 54861
immediately preceding the filing of the application. Vendors who 54862
agree to the above conditions shall make and file an annual or 54863
semiannual reconciliation return, as prescribed by the 54864
commissioner. The reconciliation return shall be filed by mailing 54865
or delivering it to the tax commissioner, together with payment of 54866
the amount of tax shown to be due thereon after deduction of any 54867

discount provided in this section. Remittance shall be made 54868
payable to the treasurer of state. Failure of a vendor to comply 54869
with any of the above conditions may result in immediate 54870
reinstatement of the requirement of reporting and paying the 54871
actual tax liability on each monthly return, and the commissioner 54872
may at the commissioner's discretion deny the vendor the right to 54873
report and pay based upon the average monthly liability for a 54874
period not to exceed two years. The amount ascertained by the 54875
commissioner to be the average monthly tax liability of a vendor 54876
may be adjusted, based upon a review of the returns or other 54877
information pertaining to the vendor for a period of not less than 54878
six months nor more than two years preceding such adjustment. 54879

The commissioner may authorize vendors whose tax liability is 54880
not such as to merit monthly returns, as ascertained by the 54881
commissioner upon the basis of administrative costs to the state, 54882
to make and file returns at less frequent intervals. When returns 54883
are filed at less frequent intervals in accordance with such 54884
authorization, the vendor shall be allowed the discount of 54885
~~three-fourths~~ one and one-tenth of one per cent in consideration 54886
for prompt payment with the return, provided the return is filed 54887
together with payment of the amount of tax shown to be due 54888
thereon, at the time specified by the commissioner, but a vendor 54889
that has selected a certified service provider as its agent shall 54890
not be entitled to the discount. 54891

Any vendor who fails to file a return or pay the full amount 54892
of the tax shown on the return to be due under this section and 54893
the rules of the commissioner may, for each such return the vendor 54894
fails to file or each such tax the vendor fails to pay in full as 54895
shown on the return within the period prescribed by this section 54896
and the rules of the commissioner, be required to forfeit and pay 54897
into the state treasury an additional charge not exceeding fifty 54898
dollars or ten per cent of the tax required to be paid for the 54899

reporting period, whichever is greater, as revenue arising from 54900
the tax imposed by this chapter, and such sum may be collected by 54901
assessment in the manner provided in section 5739.13 of the 54902
Revised Code. The commissioner may remit all or a portion of the 54903
additional charge and may adopt rules relating to the imposition 54904
and remission of the additional charge. 54905

If the amount required to be collected by a vendor from 54906
consumers is in excess of five per cent of the vendor's receipts 54907
from sales that are taxable under section 5739.02 of the Revised 54908
Code, or in the case of sales subject to a tax levied pursuant to 54909
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 54910
excess of the percentage equal to the aggregate rate of such taxes 54911
and the tax levied by section 5739.02 of the Revised Code, such 54912
excess shall be remitted along with the remittance of the amount 54913
of tax due under section 5739.10 of the Revised Code. 54914

The commissioner, if the commissioner deems it necessary in 54915
order to insure the payment of the tax imposed by this chapter, 54916
may require returns and payments to be made for other than monthly 54917
periods. The returns shall be signed by the vendor or the vendor's 54918
authorized agent. 54919

Any vendor required to file a return and pay the tax under 54920
this section, whose total payment in any year indicated in 54921
division (A) of section 5739.122 of the Revised Code equals or 54922
exceeds the amount shown in that division, shall make each payment 54923
required by this section in the second ensuing and each succeeding 54924
year by electronic funds transfer as prescribed by, and on or 54925
before the dates specified in, section 5739.122 of the Revised 54926
Code, except as otherwise prescribed by that section. For a vendor 54927
that operates from multiple locations or has multiple vendor's 54928
licenses, in determining whether the vendor's total payment equals 54929
or exceeds the amount shown in division (A) of that section, the 54930
vendor's total payment amount shall be the amount of the vendor's 54931

total tax liability for the previous calendar year for all of the 54932
vendor's locations or licenses. 54933

Sec. 5741.02. (A) For the use of the general revenue fund of 54934
the state, an excise tax is hereby levied on the storage, use, or 54935
other consumption in this state of tangible personal property or 54936
the benefit realized in this state of any service provided. The 54937
tax shall be collected pursuant to the schedules in section 54938
5739.025 of the Revised Code, provided that on and after July 1, 54939
2003, and on or before June 30, 2005, the rate of the tax shall be 54940
six per cent. 54941

(B) Each consumer, storing, using, or otherwise consuming in 54942
this state tangible personal property or realizing in this state 54943
the benefit of any service provided, shall be liable for the tax, 54944
and such liability shall not be extinguished until the tax has 54945
been paid to this state; provided, that the consumer shall be 54946
relieved from further liability for the tax if the tax has been 54947
paid to a seller in accordance with section 5741.04 of the Revised 54948
Code or prepaid by the seller in accordance with section 5741.06 54949
of the Revised Code. 54950

(C) The tax does not apply to the storage, use, or 54951
consumption in this state of the following described tangible 54952
personal property or services, nor to the storage, use, or 54953
consumption or benefit in this state of tangible personal property 54954
or services purchased under the following described circumstances: 54955

(1) When the sale of property or service in this state is 54956
subject to the excise tax imposed by sections 5739.01 to 5739.31 54957
of the Revised Code, provided said tax has been paid; 54958

(2) Except as provided in division (D) of this section, 54959
tangible personal property or services, the acquisition of which, 54960
if made in Ohio, would be a sale not subject to the tax imposed by 54961
sections 5739.01 to 5739.31 of the Revised Code; 54962

(3) Property or services, the storage, use, or other 54963
consumption of or benefit from which this state is prohibited from 54964
taxing by the Constitution of the United States, laws of the 54965
United States, or the Constitution of this state. This exemption 54966
shall not exempt from the application of the tax imposed by this 54967
section the storage, use, or consumption of tangible personal 54968
property that was purchased in interstate commerce, but that has 54969
come to rest in this state, provided that fuel to be used or 54970
transported in carrying on interstate commerce that is stopped 54971
within this state pending transfer from one conveyance to another 54972
is exempt from the excise tax imposed by this section and section 54973
5739.02 of the Revised Code; 54974

(4) Transient use of tangible personal property in this state 54975
by a nonresident tourist or vacationer, or a non-business use 54976
within this state by a nonresident of this state, if the property 54977
so used was purchased outside this state for use outside this 54978
state and is not required to be registered or licensed under the 54979
laws of this state; 54980

(5) Tangible personal property or services rendered, upon 54981
which taxes have been paid to another jurisdiction to the extent 54982
of the amount of the tax paid to such other jurisdiction. Where 54983
the amount of the tax imposed by this section and imposed pursuant 54984
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 54985
exceeds the amount paid to another jurisdiction, the difference 54986
shall be allocated between the tax imposed by this section and any 54987
tax imposed by a county or a transit authority pursuant to section 54988
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 54989
to the respective rates of such taxes. 54990

As used in this subdivision, "taxes paid to another 54991
jurisdiction" means the total amount of retail sales or use tax or 54992
similar tax based upon the sale, purchase, or use of tangible 54993
personal property or services rendered legally, levied by and paid 54994

to another state or political subdivision thereof, or to the 54995
District of Columbia, where the payment of such tax does not 54996
entitle the taxpayer to any refund or credit for such payment. 54997

(6) The transfer of a used manufactured home or used mobile 54998
home, as defined by section 5739.0210 of the Revised Code, made on 54999
or after January 1, 2000; 55000

(7) Drugs that are or are intended to be distributed free of 55001
charge to a practitioner licensed to prescribe, dispense, and 55002
administer drugs to a human being in the course of a professional 55003
practice and that by law may be dispensed only by or upon the 55004
order of such a practitioner. 55005

(D) The tax applies to the storage, use, or other consumption 55006
in this state of tangible personal property or services, the 55007
acquisition of which at the time of sale was excepted under 55008
division (E)(1) of section 5739.01 of the Revised Code from the 55009
tax imposed by section 5739.02 of the Revised Code, but which has 55010
subsequently been temporarily or permanently stored, used, or 55011
otherwise consumed in a taxable manner. 55012

(E)(1) If any transaction is claimed to be exempt under 55013
division (E) of section 5739.01 of the Revised Code or under 55014
section 5739.02 of the Revised Code, with the exception of 55015
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 55016
Code, the consumer shall provide to the seller, and the seller 55017
shall obtain from the consumer, a certificate specifying the 55018
reason that the transaction is not subject to the tax. The 55019
certificate shall be provided either in a hard copy form or 55020
electronic form, as prescribed by the tax commissioner. If the 55021
transaction is claimed to be exempt under division (B)(13) of 55022
section 5739.02 of the Revised Code, the exemption certificate 55023
shall be provided by both the contractor and contractee. Such 55024
contractee shall be deemed to be the consumer of all items 55025
purchased under the claim of exemption if it is subsequently 55026

determined that the exemption is not properly claimed. The 55027
certificate shall be in such form as the tax commissioner by rule 55028
prescribes. The seller shall maintain records, including exemption 55029
certificates, of all sales on which a consumer has claimed an 55030
exemption, and provide them to the tax commissioner on request. 55031

(2) If no certificate is provided or obtained within the 55032
period for filing the return for the period in which the 55033
transaction is consummated, it shall be presumed that the tax 55034
applies. The failure to have so provided or obtained a certificate 55035
shall not preclude a seller or consumer from establishing, within 55036
one hundred twenty days of the giving of notice by the 55037
commissioner of intention to levy an assessment, that the 55038
transaction is not subject to the tax. 55039

(F) A seller who files a petition for reassessment contesting 55040
the assessment of tax on transactions for which the seller 55041
obtained no valid exemption certificates, and for which the seller 55042
failed to establish that the transactions were not subject to the 55043
tax during the one-hundred-twenty-day period allowed under 55044
division (E) of this section, may present to the tax commissioner 55045
additional evidence to prove that the transactions were exempt. 55046
The seller shall file such evidence within ninety days of the 55047
receipt by the seller of the notice of assessment, except that, 55048
upon application and for reasonable cause, the tax commissioner 55049
may extend the period for submitting such evidence thirty days. 55050

(G) For the purpose of the proper administration of sections 55051
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 55052
of the tax hereby levied, it shall be presumed that any use, 55053
storage, or other consumption of tangible personal property in 55054
this state is subject to the tax until the contrary is 55055
established. 55056

Sec. 5743.05. All stamps provided for by section 5743.03 of 55057

the Revised Code, when procured by the tax commissioner, shall be 55058
immediately delivered to the treasurer of state, who shall execute 55059
a receipt therefor showing the number and aggregate face value of 55060
each denomination received by the treasurer of state and any other 55061
information that the commissioner requires to enforce the 55062
collection and distribution of all taxes imposed under section 55063
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 55064
to the commissioner. The treasurer of state shall sell the stamps 55065
and, on the fifth day of each month, make a report showing all 55066
sales made during the preceding month, with the names of 55067
purchasers, the number of each denomination, the aggregate face 55068
value purchased by each, and any other information as the 55069
commissioner requires to enforce the collection and distribution 55070
of all taxes imposed under section 5743.024 of the Revised Code, 55071
and deliver it to the commissioner. The treasurer of state shall 55072
be accountable for all stamps received and unsold. The stamps 55073
shall be sold and accounted for at their face value, except the 55074
commissioner shall, by rule certified to the treasurer of state, 55075
authorize the sale of stamps and meter impressions to wholesale or 55076
retail dealers in this state, or to wholesale dealers outside this 55077
state, at a discount of not less than one and eight-tenths per 55078
cent or more than ten per cent of their face value, as a 55079
commission for affixing and canceling the stamps or meter 55080
impressions. 55081

The commissioner, by rule certified to the treasurer of 55082
state, shall authorize the delivery of stamps and meter 55083
impressions to wholesale and retail dealers in this state and to 55084
wholesale dealers outside this state on credit ~~when the purchaser~~ 55085
files. If such a dealer has not been in good credit standing with 55086
this state for five consecutive years preceding the purchase, the 55087
tax commissioner shall require the dealer to file with the 55088
commissioner a bond to the state in the amount and in the form 55089
prescribed by the commissioner, ~~and~~ with surety to the 55090

satisfaction of the ~~treasurer of state~~ commissioner, conditioned 55091
on payment to the treasurer of state within thirty days for stamps 55092
or meter impressions delivered within that time. If such a dealer 55093
has been in good credit standing with this state for five 55094
consecutive years preceding the purchase, the tax commissioner 55095
shall not require that the dealer file such a bond but shall 55096
require payment for the stamps and meter impressions within thirty 55097
days after purchase of the stamps and meter impressions. Stamps 55098
and meter impressions sold to a dealer not required to file a bond 55099
shall be sold at face value. The maximum amount that may be sold 55100
on credit to a dealer not required to file a bond shall equal one 55101
hundred ten per cent of the dealer's average monthly purchases 55102
over the preceding calendar year. The maximum amount shall be 55103
adjusted to reflect any changes in the tax rate and may be 55104
adjusted, upon application to the tax commissioner by the dealer, 55105
to reflect changes in the business operations of the dealer. The 55106
maximum amount shall be applicable to the period of July through 55107
April. Payment by a dealer not required to file a bond shall be 55108
remitted by electronic funds transfer as prescribed by section 55109
5743.051 of the Revised Code. If a dealer not required to file a 55110
bond fails to make the payment in full within the thirty-day 55111
period, the treasurer of state shall not thereafter sell stamps or 55112
meter impressions to that dealer until the dealer pays the 55113
outstanding amount, including penalty and interest on that amount 55114
as prescribed in this chapter, and the commissioner thereafter may 55115
require the dealer to file a bond until the dealer is restored to 55116
good standing. The commissioner shall limit delivery of stamps and 55117
meter impressions on credit to the period running from the first 55118
day of July of the fiscal year until the first day of the 55119
following May. Any discount allowed as a commission for affixing 55120
and canceling stamps or meter impressions shall be allowed with 55121
respect to sales of stamps and meter impressions on credit. 55122

The treasurer of state shall redeem and pay for any 55123

destroyed, unused, or spoiled tax stamps and any unused meter 55124
impressions at their net value, and shall refund to wholesale 55125
dealers the net amount of state and county taxes paid erroneously 55126
or paid on cigarettes that have been sold in interstate or foreign 55127
commerce or that have become unsalable, and the net amount of 55128
county taxes that were paid on cigarettes that have been sold at 55129
retail or for retail sale outside a taxing county. 55130

An application for a refund of tax shall be filed with the 55131
tax commissioner, on the form prescribed by the commissioner for 55132
that purpose, within three years from the date the tax stamps are 55133
destroyed or spoiled, from the date of the erroneous payment, or 55134
from the date that cigarettes on which taxes have been paid have 55135
been sold in interstate or foreign commerce or have become 55136
unsalable. 55137

On the filing of the application, the commissioner shall 55138
determine the amount of refund to which the applicant is entitled, 55139
payable from receipts of the state tax, and, if applicable, 55140
payable from receipts of a county tax . If the amount is less than 55141
that claimed, the ~~commission~~ commissioner shall certify the amount 55142
to the director of budget and management and treasurer of state 55143
for payment from the tax refund fund created by section 5703.052 55144
of the Revised Code. If the amount is less than that claimed, the 55145
commissioner shall proceed in accordance with section 5703.70 of 55146
the Revised Code. 55147

If a refund is granted for payment of an illegal or erroneous 55148
assessment issued by the department, the refund shall include 55149
interest on the amount of the refund from the date of the 55150
overpayment. The interest shall be computed at the rate per annum 55151
prescribed by section 5703.47 of the Revised Code. 55152

Sec. 5743.051. This section applies to any wholesale or 55153
retail cigarette dealer required by section 5743.05 of the Revised 55154

Code to remit payment for tax stamps and meter impressions by 55155
electronic funds transfer. The tax commissioner shall notify each 55156
dealer of the dealer's obligation to do so and shall maintain an 55157
updated list of those dealers. Failure by the tax commissioner to 55158
notify a dealer subject to this section to remit taxes by 55159
electronic funds transfer does not relieve the dealer of its 55160
obligation to remit taxes by electronic funds transfer. 55161

A dealer required to remit payments by electronic funds 55162
transfer shall remit such payments to the treasurer of state in 55163
the manner prescribed by rules adopted by the treasurer of state 55164
under section 113.061 of the Revised Code and within the time 55165
prescribed for such a dealer by section 5743.05 of the Revised 55166
Code. 55167

A dealer required to remit taxes by electronic funds transfer 55168
may apply to the tax commissioner in the manner prescribed by the 55169
tax commissioner to be excused from that requirement. The tax 55170
commissioner may excuse the dealer from remittance by electronic 55171
funds transfer for good cause shown for the period of time 55172
requested by the dealer or for a portion of that period. 55173

If a dealer required to remit taxes by electronic funds 55174
transfer remits those taxes by some other means, the treasurer of 55175
state shall notify the tax commissioner of the failure to remit by 55176
electronic funds transfer. If the tax commissioner determines that 55177
such failure was not due to reasonable cause or was due to willful 55178
neglect, the tax commissioner may collect an additional charge by 55179
assessment in the manner prescribed by section 5743.081 of the 55180
Revised Code. The additional charge shall equal five per cent of 55181
the amount of the taxes required to be paid by electronic funds 55182
transfer but shall not exceed five thousand dollars. Any 55183
additional charge assessed under this section is in addition to 55184
any other penalty or charge imposed under this chapter and shall 55185
be considered as revenue arising from taxes imposed under this 55186

chapter. The tax commissioner may abate all or a portion of such a 55187
charge and may adopt rules governing such remissions. 55188

No additional charge shall be assessed under this section 55189
against a dealer that has been notified of its obligation to remit 55190
taxes under this section and that remits its first two tax 55191
payments after such notification by some means other than 55192
electronic funds transfer. The additional charge may be assessed 55193
upon the remittance of any subsequent tax payment that the dealer 55194
remits by some means other than electronic funds transfer. 55195

Sec. 5745.01. As used in this chapter: 55196

(A) "Electric company," ~~and~~ "combined company," and 55197
"telephone company," have the same meanings as in section 5727.01 55198
of the Revised Code, except "telephone company" does not include a 55199
non profit corporation. 55200

(B) "Electric light company" has the same meaning as in 55201
section 4928.01 of the Revised Code, and includes the activities 55202
of a combined company as an electric company, but excludes 55203
nonprofit companies and municipal corporations. 55204

(C) "Taxpayer" means ~~an~~ either of the following: 55205

(1) An electric light company subject to taxation by a 55206
municipal corporation in this state for a taxable year, excluding 55207
an electric light company that is not an electric company or a 55208
combined company and for which an election made under section 55209
5745.031 of the Revised Code is not in effect with respect to the 55210
taxable year. If such a company is a qualified subchapter S 55211
subsidiary as defined in section 1361 of the Internal Revenue Code 55212
or a disregarded entity, the company's parent S corporation or 55213
owner is the taxpayer for the purposes of this chapter and is 55214
hereby deemed to have nexus with this state under the Constitution 55215
of the United States for the purposes of this chapter. 55216

(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 ending in 2004 shall compute the tax imposed under this chapter, or shall compute its net operating loss carried forward for that taxable year, by multiplying the tax owed, or the loss for the taxable year, by fifty per cent.

(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

increase its federal taxable income by the absolute value of the 55247
amount of the book-tax ~~differential~~ difference for that qualifying 55248
asset if the book-tax ~~differential~~ difference is less than zero. 55249
The adjustments provided in division (G)(3) of this section are 55250
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 55251
the Revised Code to the extent those divisions apply to the 55252
adjustments in that section for the taxable year. A taxpayer shall 55253
not deduct or add any amount under division (G)(3) of this section 55254
with respect to a qualifying asset the sale, exchange, or other 55255
disposition of which resulted in the recognition of a gain or loss 55256
that the taxpayer deducted or added, respectively, under division 55257
(G)(1) or (2) of this section. 55258

For the purposes of division (G)(3) of this section, "~~net~~ 55259
~~income~~" ~~has the same meaning as in section 5733.04 of the Revised~~ 55260
~~Code, and~~ "book-tax ~~differential~~ difference," "qualifying 55261
taxpayer," "qualifying asset," and "qualifying taxable event" have 55262
the same meanings as in section 5733.0510 of the Revised Code. 55263

(4) Add the amounts described in section 5745.042 of the 55264
Revised Code. 55265

(5) If the taxpayer is not a C corporation and is not an 55266
individual, the taxpayer shall compute "adjusted federal taxable 55267
income" as if the taxpayer were a C corporation, but with respect 55268
to each owner-employee of the taxpayer, amounts paid or accrued to 55269
a qualified self-employed retirement plan and amounts paid or 55270
accrued to or for health insurance or life insurance shall not be 55271
allowed as a deduction. Nothing in this division shall be 55272
construed as allowing the taxpayer to deduct any amount more than 55273
once. 55274

(H) "Internal Revenue Code" means the "Internal Revenue Code 55275
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 55276
December 31, 2001. 55277

(I) "Ohio net income" means the amount determined under 55278
division (B) of section 5745.02 of the Revised Code. 55279

Sec. 5745.02. (A) The annual report filed under section 55280
5745.03 of the Revised Code determines a taxpayer's Ohio net 55281
income and the portion of Ohio net income to be apportioned to a 55282
municipal corporation. 55283

(B) A taxpayer's Ohio net income is determined by multiplying 55284
the taxpayer's adjusted federal taxable income by the sum of the 55285
property factor multiplied by one-third, the payroll factor 55286
multiplied by one-third, and the sales factor multiplied by 55287
one-third. If the denominator of one of the factors is zero, the 55288
remaining two factors each shall be multiplied by one-half instead 55289
of one-third; if the denominator of two of the factors is zero, 55290
the remaining factor shall be multiplied by one. The property, 55291
payroll, and sales factors shall be determined in the manner 55292
prescribed by divisions (B)(1), (2), and (3) of this section. 55293

(1) The property factor is a fraction, the numerator of which 55294
is the average value of the taxpayer's real and tangible personal 55295
property owned or rented, and used in business in this state 55296
during the taxable year, and the denominator of which is the 55297
average value of all the taxpayer's real and tangible personal 55298
property owned or rented, and used in business everywhere during 55299
such year. Property owned by the taxpayer is valued at its 55300
original cost. Property rented by the taxpayer is valued at eight 55301
times the net annual rental rate. "Net annual rental rate" means 55302
the annual rental rate paid by the taxpayer less any annual rental 55303
rate received by the taxpayer from subrentals. The average value 55304
of property shall be determined by averaging the values at the 55305
beginning and the end of the taxable year, but the tax 55306
commissioner may require the averaging of monthly values during 55307
the taxable year, if reasonably required to reflect properly the 55308

average value of the taxpayer's property. 55309

(2) The payroll factor is a fraction, the numerator of which 55310
is the total amount paid in this state during the taxable year by 55311
the taxpayer for compensation, and the denominator of which is the 55312
total compensation paid everywhere by the taxpayer during such 55313
year. Compensation means any form of remuneration paid to an 55314
employee for personal services. Compensation is paid in this state 55315
if: (a) the recipient's service is performed entirely within this 55316
state, (b) the recipient's service is performed both within and 55317
without this state, but the service performed without this state 55318
is incidental to the recipient's service within this state, or (c) 55319
some of the service is performed within this state and either the 55320
base of operations, or if there is no base of operations, the 55321
place from which the service is directed or controlled is within 55322
this state, or the base of operations or the place from which the 55323
service is directed or controlled is not in any state in which 55324
some part of the service is performed, but the recipient's 55325
residence is in this state. 55326

(3) The sales factor is a fraction, the numerator of which is 55327
the total sales in this state by the taxpayer during the taxable 55328
year, and the denominator of which is the total sales by the 55329
taxpayer everywhere during such year. Sales of electricity shall 55330
be situated to this state in the manner provided under section 55331
5733.059 of the Revised Code. In determining the numerator and 55332
denominator of the sales factor, receipts from the sale or other 55333
disposal of a capital asset or an asset described in section 1231 55334
of the Internal Revenue Code shall be eliminated. Also, in 55335
determining the numerator and denominator of the sales factor, in 55336
the case of a reporting taxpayer owning at least eighty per cent 55337
of the issued and outstanding common stock of one or more 55338
insurance companies or public utilities, except an electric 55339
company, a combined company, or a telephone company, or owning at 55340

least twenty-five per cent of the issued and outstanding common 55341
stock of one or more financial institutions, receipts received by 55342
the reporting taxpayer from such utilities, insurance companies, 55343
and financial institutions shall be eliminated. 55344

For the purpose of division (B)(3) of this section, sales of 55345
tangible personal property are in this state where such property 55346
is received in this state by the purchaser. In the case of 55347
delivery of tangible personal property by common carrier or by 55348
other means of transportation, the place at which such property is 55349
ultimately received after all transportation has been completed 55350
shall be considered as the place at which such property is 55351
received by the purchaser. Direct delivery in this state, other 55352
than for purposes of transportation, to a person or firm 55353
designated by a purchaser constitutes delivery to the purchaser in 55354
this state, and direct delivery outside this state to a person or 55355
firm designated by a purchaser does not constitute delivery to the 55356
purchaser in this state, regardless of where title passes or other 55357
conditions of sale. 55358

Sales, other than sales of electricity or tangible personal 55359
property, are in this state if either the income-producing 55360
activity is performed solely in this state, or the 55361
income-producing activity is performed both within and without 55362
this state and a greater proportion of the income-producing 55363
activity is performed within this state than in any other state, 55364
based on costs of performance. 55365

For the purposes of division (B)(3) of this section, the tax 55366
commissioner may adopt rules to apportion sales within this state. 55367

(C) The portion of a taxpayer's Ohio net income taxable by 55368
each municipal corporation imposing an income tax shall be 55369
determined by multiplying the taxpayer's Ohio net income by the 55370
sum of the municipal property factor multiplied by one-third, the 55371
municipal payroll factor multiplied by one-third, and the 55372

municipal sales factor multiplied by one-third, and subtracting 55373
from the product so obtained any "municipal net operating loss 55374
carryforward from prior taxable years." If the denominator of one 55375
of the factors is zero, the remaining two factors each shall be 55376
multiplied by one-half instead of one-third; if the denominator of 55377
two of the factors is zero, the remaining factor shall be 55378
multiplied by one. In calculating the "municipal net operating 55379
loss carryforward from prior taxable years" for each municipal 55380
corporation, net operating losses are apportioned in and out of a 55381
municipal corporation for the taxable year in which the net 55382
operating loss occurs in the same manner that positive net income 55383
would have been so apportioned. Any net operating loss for a 55384
municipal corporation may be applied to subsequent net income in 55385
that municipal corporation to reduce that income to zero or until 55386
the net operating loss has been fully used as a deduction. The 55387
unused portion of net operating losses for each taxable year 55388
apportioned to a municipal corporation may only be applied against 55389
the income apportioned to that municipal corporation for five 55390
subsequent taxable years. Net operating losses occurring in 55391
taxable years ending before 2002 may not be subtracted under this 55392
section. 55393

A taxpayer's municipal property, municipal payroll, and 55394
municipal sales factors for a municipal corporation shall be 55395
determined as provided in divisions (C)(1), (2), and (3) of this 55396
section. 55397

(1) The municipal property factor is the quotient obtained by 55398
dividing (a) the average value of real and tangible personal 55399
property owned or rented by the taxpayer and used in business in 55400
the municipal corporation during the taxable year by (b) the 55401
average value of all of the taxpayer's real and tangible personal 55402
property owned or rented and used in business during that taxable 55403
year in this state. The value and average value of such property 55404

shall be determined in the same manner provided in division (B)(1) 55405
of this section. 55406

(2) The municipal payroll factor is the quotient obtained by 55407
dividing (a) the total amount of compensation earned in the 55408
municipal corporation by the taxpayer's employees during the 55409
taxable year for services performed for the taxpayer and that is 55410
subject to income tax withholding by the municipal corporation by 55411
(b) the total amount of compensation paid by the taxpayer to its 55412
employees in this state during the taxable year. Compensation has 55413
the same meaning as in division (B)(2) of this section. 55414

(3) The municipal sales factor is a fraction, the numerator 55415
of which is the taxpayer's total sales in a municipal corporation 55416
during the taxable year, and the denominator of which is the 55417
taxpayer's total sales in this state during such year. 55418

For the purpose of division (C)(3) of this section, sales of 55419
tangible personal property are in the municipal corporation where 55420
such property is received in the municipal corporation by the 55421
purchaser. Sales of electricity directly to the consumer, as 55422
defined in section 5733.059 of the Revised Code, shall be 55423
considered sales of tangible personal property. In the case of the 55424
delivery of tangible personal property by common carrier or by 55425
other means of transportation, the place at which such property 55426
ultimately is received after all transportation has been completed 55427
shall be considered as the place at which the property is received 55428
by the purchaser. Direct delivery in the municipal corporation, 55429
other than for purposes of transportation, to a person or firm 55430
designated by a purchaser constitutes delivery to the purchaser in 55431
that municipal corporation, and direct delivery outside the 55432
municipal corporation to a person or firm designated by a 55433
purchaser does not constitute delivery to the purchaser in that 55434
municipal corporation, regardless of where title passes or other 55435
conditions of sale. Sales, other than sales of tangible personal 55436

property, are in the municipal corporation if either: 55437

(a) The income-producing activity is performed solely in the 55438
municipal corporation; 55439

(b) The income-producing activity is performed both within 55440
and without the municipal corporation and a greater proportion of 55441
the income-producing activity is performed within that municipal 55442
corporation than any other location in this state, based on costs 55443
of performance. 55444

For the purposes of division (C)(3) of this section, the tax 55445
commissioner may adopt rules to apportion sales within each 55446
municipal corporation. 55447

(D) If a taxpayer is a combined company as defined in section 55448
5727.01 of the Revised Code, the municipal property, payroll, and 55449
sales factors under division (C) of this section shall be adjusted 55450
as follows: 55451

(1) The numerator of the municipal property factor shall 55452
include only the value, as determined under division (C)(1) of 55453
this section, of the company's real and tangible property in the 55454
municipal corporation attributed to the company's activity as an 55455
electric company using the same methodology prescribed under 55456
section 5727.03 of the Revised Code for taxable tangible personal 55457
property. 55458

(2) The numerator of the municipal payroll factor shall 55459
include only compensation paid in the municipal corporation by the 55460
company to its employees for personal services rendered in the 55461
company's activity as an electric company. 55462

(3) The numerator of the municipal sales factor shall include 55463
only the sales of tangible personal property and services, as 55464
determined under division (C)(3) of this section, made in the 55465
municipal corporation in the course of the company's activity as 55466
an electric company. 55467

(E)(1) If the provisions for apportioning adjusted federal taxable income or Ohio net income under ~~division~~ divisions (B), (C), and (D) of this section do not fairly represent business activity in this state or among municipal corporations, the tax commissioner may adopt rules for apportioning such income by an alternative method that fairly represents business activity in this state or among municipal corporations.

(2) If any of the factors determined under division (B), (C), or (D) of this section does not fairly represent the extent of a taxpayer's business activity in this state or among municipal corporations, the taxpayer may request, or the tax commissioner may require, that the taxpayer's adjusted federal taxable income or Ohio net income be determined by an alternative method, including any of the alternative methods enumerated in division (B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer requesting an alternative method shall make the request in writing to the tax commissioner either with the annual report, a timely filed amended report, or a timely filed petition for reassessment. When the tax commissioner requires or permits an alternative method under division (E)(2) of this section, the tax commissioner shall cause a written notice to that effect to be delivered to any municipal corporation that would be affected by application of the alternative method. Nothing in this division shall be construed to extend any statute of limitations under this chapter.

(F)(1) The tax commissioner may adopt rules providing for the combination of adjusted federal taxable incomes of taxpayers satisfying the ownership or control requirements of section 5733.052 of the Revised Code if the tax commissioner finds that such combinations are necessary to properly reflect adjusted federal taxable income, Ohio net income, or the portion of Ohio net income to be taxable by municipal corporations.

(2) A taxpayer satisfying the ownership or control

requirements of section 5733.052 of the Revised Code with respect 55500
to one or more other taxpayers may not combine their adjusted 55501
federal taxable incomes for the purposes of this section unless 55502
rules are adopted under division (F)(1) of this section allowing 55503
such a combination or the tax commissioner finds that such a 55504
combination is necessary to properly reflect the taxpayers' 55505
adjusted federal taxable incomes, Ohio net incomes, or the portion 55506
of Ohio net incomes to be subject to taxation within a municipal 55507
corporation. 55508

(G) The tax commissioner may adopt rules providing for 55509
alternative apportionment methods for a telephone company. 55510

Sec. 5745.04. (A) As used in this section, "combined tax 55511
liability" means the total of a taxpayer's income tax liabilities 55512
to all municipal corporations in this state for a taxable year. 55513

(B) Beginning with its taxable year beginning in 2003, each 55514
taxpayer shall file a declaration of estimated tax report with, 55515
and remit estimated taxes to, the tax commissioner, payable to the 55516
treasurer of state, at the times and in the amounts prescribed in 55517
divisions (B)(1) to (4) of this section. This division also 55518
applies to a taxpayer having a taxable year consisting of fewer 55519
than twelve months, at least one of which is in 2002, that ends 55520
before January 1, 2003. The first taxable year a taxpayer is 55521
subject to this chapter, the estimated taxes the taxpayer is 55522
required to remit under this section shall be based solely on the 55523
current taxable year and not on the liability for the preceding 55524
taxable year. 55525

(1) Not less than twenty-five per cent of the combined tax 55526
liability for the preceding taxable year or twenty per cent of the 55527
combined tax liability for the current taxable year shall have 55528
been remitted not later than the fifteenth day of the fourth month 55529
after the end of the preceding taxable year. 55530

(2) Not less than fifty per cent of the combined tax liability for the preceding taxable year or forty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the sixth month after the end of the preceding taxable year.

(3) Not less than seventy-five per cent of the combined tax liability for the preceding taxable year or sixty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the ninth month after the end of the preceding taxable year.

(4) Not less than one hundred per cent of the combined tax liability for the preceding taxable year or eighty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the twelfth month after the end of the preceding taxable year.

(C) Each taxpayer shall report on the declaration of estimated tax report the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(D) Upon receiving a declaration of estimated tax report and remittance of estimated taxes under this section, the tax commissioner shall immediately forward to the treasurer of state such remittance. The treasurer of state shall credit ninety-eight and one-half per cent of the remittance to the municipal income tax fund and credit the remainder to the municipal income tax administrative fund.

(E) If any remittance of estimated taxes is for one thousand dollars or more, the taxpayer shall make the remittance by electronic funds transfer as prescribed by section 5745.04 of the Revised Code.

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised

Code, no penalty or interest shall be imposed on a taxpayer if the 55562
declaration of estimated tax report is properly filed, and the 55563
estimated tax is paid, within the time prescribed by division (B) 55564
of this section. 55565

Sec. 5745.042. (A) As used in this section: 55566

(1) "Intangible expenses and costs" means expenses, losses, 55567
and costs for, related to, or in connection with, the direct or 55568
indirect acquisition, use, maintenance, management, ownership, 55569
sale, exchange, or any other direct or indirect disposition of 55570
intangible property to the extent such amounts are allowed as 55571
deductions or costs in determining taxable income before operating 55572
loss deduction and special deductions for the taxable year under 55573
the Internal Revenue Code. Such expenses and costs include losses 55574
related to, or incurred in connection with, factoring 55575
transactions, discounting transactions, royalty, patent, 55576
technical, copyright, and licensing fees, and other similar 55577
expenses and costs. 55578

(2) "Interest expenses and costs" include amounts directly or 55579
indirectly allowed as deductions under section 163 of the Internal 55580
Revenue Code for purposes of determining taxable income. 55581

(3) "Related member" has the same meaning as in section 55582
5733.042 of the Revised Code. 55583

(B) Except as otherwise provided in section 5745.044 of the 55584
Revised Code, for taxable years beginning on or after January 1, 55585
2004, in computing adjusted federal taxable income under division 55586
(H)(4) of section 5745.01 of the Revised Code, a taxpayer shall 55587
add interest expenses and costs and intangible expenses and costs 55588
directly or indirectly paid, accrued, or incurred to, or in 55589
connection with, one or more direct or indirect transactions with 55590
one or more related members. The taxpayer shall make the 55591
adjustment required under this division in accordance with the 55592

principles and concepts set forth in section 5733.057 of the 55593
Revised Code. 55594

(C)(1) Division (B) of this section does not apply to any 55595
portion of interest expenses and costs and intangible expenses and 55596
costs for which the taxpayer can establish by a preponderance of 55597
the evidence that: 55598

(a) The related member during the same taxable year directly 55599
or indirectly paid, accrued, or incurred such portion to a person 55600
who is not a related member, and during the six-year period 55601
commencing three years prior to the first day of the taxpayer's 55602
taxable year the person or the person's related member did not 55603
pay, accrue, or incur all or any portion, amount, or similar 55604
portion of such expenses or costs to the taxpayer or to any 55605
related member of the taxpayer; and 55606

(b) The transaction giving rise to the interest expenses and 55607
costs or the intangible expenses and costs between the taxpayer 55608
and the related member did not have as a principal purpose the 55609
avoidance of any portion of the tax due by the taxpayer. 55610

(2) A taxpayer shall not be required to make any adjustment 55611
required under division (B) of this section if the increased tax, 55612
if any, attributable to such adjustment would have been avoided 55613
had the taxpayer, the related member, and any other related 55614
members to whom the taxpayer's related member pays, accrues, or 55615
incurs the expenses and costs had filed a consolidated municipal 55616
income tax return. 55617

(D) If a taxpayer required to make an adjustment under 55618
division (B) of this section fails to make the adjustment and pay 55619
the additional tax, if any, attributable to such adjustment within 55620
one year after the taxpayer files the municipal income tax report, 55621
a penalty shall be imposed equal to twice the interest charged 55622
under section 5745.07 of the Revised Code. The penalty imposed 55623

under this division is in addition to all other interest, 55624
penalties, and other charges imposed under this chapter. 55625

(E) The tax commissioner may waive, abate, modify, or refund, 55626
with interest, all or any portion of a penalty imposed under 55627
division (D) of this section if the taxpayer establishes beyond a 55628
reasonable doubt that any failure to fully comply with this 55629
section was not an attempt to avoid any portion of the tax due 55630
under this chapter. 55631

(F)(1) As used in this division, "tax difference" means the 55632
difference between the tax imposed on a taxpayer under section 55633
5733.06 of the Revised Code and the amount of tax attributable to 55634
the adjustment required under division (B) of this section that 55635
the taxpayer pays within one year from the date prescribed for 55636
payment. 55637

(2) The penalty created under division (D) of this section 55638
does not apply if the tax difference: 55639

(a) Is less than ten per cent of the tax imposed under this 55640
chapter; and 55641

(b) Is less than fifty thousand dollars. 55642

(G) Nothing in this section shall be construed as requiring a 55643
taxpayer to add interest expenses and costs and intangible 55644
expenses and costs to federal taxable income more than once in any 55645
taxable year. 55646

Sec. 5745.044. (A)(1) As used in this section, "federal 55647
income tax return" does not include any return filed for purposes 55648
of reporting withholding taxes, providing information rather than 55649
reporting income tax liability, or claiming the benefits of a tax 55650
treaty between the United States and another government. 55651

(2) "Federal income tax" does not include withholding taxes. 55652

(3) "Related member" has the same meaning as in section 55653

5733.042 of the Revised Code. 55654

(B) The adjustments required under division (B) of section 5745.042 of the Revised Code for interest expenses and costs and intangible expenses and costs paid to a related member do not apply to a C corporation for the taxable year if the C corporation establishes all of the following by clear and convincing evidence: 55655
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(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; 55660
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(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; 55663
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(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; 55669
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(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 55676
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(5) The transaction giving rise to the payment did not have as a principal purpose the avoidance of any portion of the tax due 55683
55684

under this chapter. 55685

(C) A corporation claiming that the adjustments required 55686
under division (B) of section 5745.042 of the Revised Code do not 55687
apply to it must refute by clear and convincing evidence any 55688
reasonable conclusion of the tax commissioner that any of the 55689
doctrines set forth in section 5703.56 of the Revised Code should 55690
apply. 55691

(D) If a corporation makes a payment to a related member and 55692
the payment is processed or paid through another related member as 55693
described in division (B)(1) of this section, this section applies 55694
only to the corporation's pro rata share of the total payments 55695
made by all such related members during the taxable year, unless 55696
the corporation establishes by clear and convincing evidence that 55697
its actual payment to the related member was more than its pro 55698
rata share. 55699

(E) Any adjustments made by the internal revenue service with 55700
respect to any related member of the corporation under an advanced 55701
pricing agreement or section 482 of the Internal Revenue Code 55702
shall be presumed to be adjustments properly attributed to the 55703
corporation, unless the corporation establishes by clear and 55704
convincing evidence that the adjustment should be attributed, in 55705
whole or in part, to another person. 55706

(F) If any corporation claims the benefit provided under 55707
division (B) of this section and is not entitled to such benefit, 55708
any adjustment required by section 5745.042 of the Revised Code 55709
shall be increased by an amount equal to twice the amount of the 55710
adjustment, unless the adjustment was made under an advanced 55711
pricing agreement. 55712

Sec. 5747.026. (A) For taxable years beginning on or after 55713
January 1, 2002, a member of the national guard or a member of a 55714
reserve component of the armed forces of the United States called 55715

to active or other duty under operation Iraqi freedom may apply to 55716
the tax commissioner for an extension for filing of the return and 55717
payment of taxes required under Chapter 5747. of the Revised Code 55718
during the period of the member's duty service and for sixty days 55719
thereafter. The application shall be filed on or before the 55720
sixtieth day after the member's duty terminates. An applicant 55721
shall provide such evidence as the commissioner considers 55722
necessary to demonstrate eligibility for the extension. 55723

(B)(1) If the commissioner determines that an applicant is 55724
qualified for an extension under this section, the commissioner 55725
shall enter into a contract with the applicant for the payment of 55726
the tax in installments that begin on the sixty-first day after 55727
the applicant's duty under operation Iraqi freedom terminates. 55728
Except as provided in division (B)(3) of this section, the 55729
commissioner may prescribe such contract terms as the commissioner 55730
considers appropriate. 55731

(2) If the commissioner determines that an applicant is 55732
qualified for an extension under this section, the applicant shall 55733
not be required to file any return, report, or other tax document 55734
before the sixty-first day after the applicant's duty under 55735
operation Iraqi freedom terminates. 55736

(3) Taxes paid pursuant to a contract entered into under 55737
division (B)(1) of this section are not delinquent. The tax 55738
commissioner shall not require any payments of penalties or 55739
interest in connection with such taxes. 55740

(C) The tax commissioner shall adopt rules necessary to 55741
administer this section, including rules establishing the 55742
following: 55743

(1) Forms and procedures by which applicants may apply for 55744
extensions; 55745

(2) Criteria for eligibility; 55746

(3) A schedule for repayment of deferred taxes. 55747

Sec. 5747.12. If a person entitled to a refund under section 55748
5747.11 or 5747.13 of the Revised Code is indebted to this state 55749
for any tax, workers' compensation premium due under section 55750
4123.35 of the Revised Code, unemployment compensation 55751
contribution due under section 4141.25 of the Revised Code, or fee 55752
~~administered by the tax commissioner~~ that is paid to the state or 55753
to the clerk of courts pursuant to section 4505.06 of the Revised 55754
Code, or any charge, penalty, or interest arising from such a tax, 55755
workers' compensation premium, unemployment compensation 55756
contribution, or fee, the amount refundable may be applied in 55757
satisfaction of the debt. If the amount refundable is less than 55758
the amount of the debt, it may be applied in partial satisfaction 55759
of the debt. If the amount refundable is greater than the amount 55760
of the debt, the amount remaining after satisfaction of the debt 55761
shall be refunded. If the person has more than one such debt, any 55762
debt subject to section 5739.33 or division (G) of section 5747.07 55763
of the Revised Code shall be satisfied first. This section applies 55764
only to debts that have become final. 55765

The tax commissioner may, with the consent of the taxpayer, 55766
provide for the crediting, against tax imposed under this chapter 55767
or Chapter 5748. of the Revised Code and due for any taxable year, 55768
of the amount of any refund due the taxpayer under this chapter or 55769
Chapter 5748. of the Revised Code, as appropriate, for a preceding 55770
taxable year. 55771

Sec. 5903.12. (A) As used in this section: 55772

(1) "Continuing education" means continuing education 55773
required of a licensee by law and includes, but is not limited to, 55774
the continuing education required of licensees under sections 55775
3737.881, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 55776

4725.16, ~~4725.51~~, 4731.281, 4734.25, 4735.141, 4736.11, 4741.16, 55777
4741.19, 4751.07, 4755.63, 4757.33, 4759.06, 4761.06, and 4763.07 55778
of the Revised Code. 55779

(2) "License" means a license, certificate, permit, or other 55780
authorization issued or conferred by a licensing agency under 55781
which a licensee may engage in a profession, occupation, or 55782
occupational activity. 55783

(3) "Licensee" means a person to whom all of the following 55784
apply: 55785

(a) The person has been issued a license by a licensing 55786
agency. 55787

(b) The person is a member of the Ohio national guard, the 55788
Ohio military reserve, the Ohio naval militia, or a reserve 55789
component of the armed forces of the United States. 55790

(c) The person has been called to active duty, whether inside 55791
or outside the United States, because of an executive order issued 55792
by the president of the United States or an act of congress, for a 55793
period in excess of thirty-one days. 55794

(4) "Licensing agency" means any state department, division, 55795
board, commission, agency, or other state governmental unit 55796
authorized by the Revised Code to issue a license. 55797

(5) "Reporting period" means the period of time during which 55798
a licensee must complete the number of hours of continuing 55799
education required of the licensee by law. 55800

(B) Each licensing agency, upon receiving an application from 55801
one of its licensees that is accompanied by proper documentation 55802
certifying that the licensee has been called to active duty as 55803
described in division (A)(3)(c) of this section during the current 55804
or a prior reporting period and certifying the length of that 55805
active duty, shall extend the current reporting period by an 55806

amount of time equal to the total number of months that the 55807
licensee spent on active duty during the current reporting period. 55808
For purposes of this division, any portion of a month served on 55809
active duty shall be considered one full month. 55810

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 55811
of this section, on and after January 1, 1994, no person shall 55812
operate or maintain a public water system in this state without a 55813
license issued by the director of environmental protection. A 55814
person who operates or maintains a public water system on January 55815
1, 1994, shall obtain an initial license under this section in 55816
accordance with the following schedule: 55817

(1) If the public water system is a community water system, 55818
not later than January 31, 1994; 55819

(2) If the public water system is not a community water 55820
system and serves a nontransient population, not later than 55821
January 31, 1994; 55822

(3) If the public water system is not a community water 55823
system and serves a transient population, not later than January 55824
31, 1995. 55825

A person proposing to operate or maintain a new public water 55826
system after January 1, 1994, in addition to complying with 55827
section 6109.07 of the Revised Code and rules adopted under it, 55828
shall submit an application for an initial license under this 55829
section to the director prior to commencing operation of the 55830
system. 55831

A license or license renewal issued under this section shall 55832
be renewed annually. Such a license or license renewal shall 55833
expire on the thirtieth day of January in the year following its 55834
issuance. A license holder that proposes to continue operating the 55835
public water system for which the license or license renewal was 55836

issued shall apply for a license renewal at least thirty days 55837
prior to that expiration date. 55838

The director shall adopt, and may amend and rescind, rules in 55839
accordance with Chapter 119. of the Revised Code establishing 55840
procedures governing and information to be included on 55841
applications for licenses and license renewals under this section. 55842
Through June 30, ~~2004~~ 2006, each application shall be accompanied 55843
by the appropriate fee established under division (M) of section 55844
3745.11 of the Revised Code, provided that an applicant for an 55845
initial license who is proposing to operate or maintain a new 55846
public water system after January 1, 1994, shall submit a fee that 55847
equals a prorated amount of the appropriate fee established under 55848
that division for the remainder of the licensing year. 55849

(B) Not later than thirty days after receiving a completed 55850
application and the appropriate license fee for an initial license 55851
under division (A) of this section, the director shall issue the 55852
license for the public water system. Not later than thirty days 55853
after receiving a completed application and the appropriate 55854
license fee for a license renewal under division (A) of this 55855
section, the director shall do one of the following: 55856

(1) Issue the license renewal for the public water system; 55857

(2) Issue the license renewal subject to terms and conditions 55858
that the director determines are necessary to ensure compliance 55859
with this chapter and rules adopted under it; 55860

(3) Deny the license renewal if the director finds that the 55861
public water system was not operated in substantial compliance 55862
with this chapter and rules adopted under it. 55863

(C) The director may suspend or revoke a license or license 55864
renewal issued under this section if the director finds that the 55865
public water system was not operated in substantial compliance 55866
with this chapter and rules adopted under it. The director shall 55867

adopt, and may amend and rescind, rules in accordance with Chapter 55868
119. of the Revised Code governing such suspensions and 55869
revocations. 55870

(D)(1) As used in division (D) of this section, "church" 55871
means a fellowship of believers, congregation, society, 55872
corporation, convention, or association that is formed primarily 55873
or exclusively for religious purposes and that is not formed or 55874
operated for the private profit of any person. 55875

(2) This section does not apply to a church that operates or 55876
maintains a public water system solely to provide water for that 55877
church or for a campground that is owned by the church and 55878
operated primarily or exclusively for members of the church and 55879
their families. A church that, on or before March 5, 1996, has 55880
obtained a license under this section for such a public water 55881
system need not obtain a license renewal under this section. 55882

(E) This section does not apply to any public or nonpublic 55883
school that meets minimum standards of the state board of 55884
education that operates or maintains a public water system solely 55885
to provide water for that school. 55886

Sec. 6117.02. (A) The board of county commissioners shall fix 55887
reasonable rates, including penalties for late payments, for the 55888
use, or the availability for use, of the sanitary facilities of a 55889
sewer district to be paid by every person and public agency whose 55890
premises are served, or capable of being served, by a connection 55891
directly or indirectly to those facilities when those facilities 55892
are owned or operated by the county and may change the rates from 55893
time to time as it considers advisable. When the sanitary 55894
facilities to be used by the county are owned by another public 55895
agency or person, the schedule of rates to be charged by the 55896
public agency or person for the use of the facilities by the 55897
county, or the formula or other procedure for their determination, 55898

shall be approved by the board at the time it enters into a 55899
contract for that use. 55900

(B) The board also shall establish reasonable charges to be 55901
collected for the privilege of connecting to the sanitary 55902
facilities of the district, with the requirement that, prior to 55903
the connection, the charges shall be paid in full, or, if 55904
determined by the board to be equitable in a resolution relating 55905
to the payment of the charges, provision considered adequate by 55906
the board shall be made for their payment in installments at the 55907
times, in the amounts, and with the security, carrying charges, 55908
and penalties as may be found by the board in that resolution to 55909
be fair and appropriate. No public agency or person shall be 55910
permitted to connect to those facilities until the charges have 55911
been paid in full or provision for their payment in installments 55912
has been made. If the connection charges are to be paid in 55913
installments, the board shall certify to the county auditor 55914
information sufficient to identify each parcel of property served 55915
by a connection and, with respect to each parcel, the total of the 55916
charges to be paid in installments, the amount of each 55917
installment, and the total number of installments to be paid. The 55918
auditor shall record and maintain the information supplied in the 55919
sewer improvement record provided for in section 6117.33 of the 55920
Revised Code until the connection charges are paid in full. The 55921
board may include amounts attributable to connection charges being 55922
paid in installments in its billings of rates and charges for the 55923
use of sanitary facilities. 55924

(C) When any of the sanitary rates or charges are not paid 55925
when due, the board may do any or all of the following as it 55926
considers appropriate: 55927

(1) Certify the unpaid rates or charges, together with any 55928
penalties, to the county auditor, who shall place them upon the 55929
real property tax list and duplicate against the property served 55930

by the connection. The certified amount shall be a lien on the 55931
property from the date placed on the real property tax list and 55932
duplicate and shall be collected in the same manner as taxes, 55933
except that, notwithstanding section 323.15 of the Revised Code, a 55934
county treasurer shall accept a payment in that amount when 55935
separately tendered as payment for the full amount of the unpaid 55936
sanitary rates or charges and associated penalties. The lien shall 55937
be released immediately upon payment in full of the certified 55938
amount. 55939

(2) Collect the unpaid rates or charges, together with any 55940
penalties, by actions at law in the name of the county from an 55941
owner, tenant, or other person or public agency that is liable for 55942
the payment of the rates or charges; 55943

(3) Terminate, in accordance with established rules, the 55944
sanitary service to the particular property and, if so determined, 55945
any county water service to that property, unless and until the 55946
unpaid sanitary rates or charges, together with any penalties, are 55947
paid in full; 55948

(4) Apply, to the extent required, any security deposit made 55949
in accordance with established rules to the payment of sanitary 55950
rates and charges for service to the particular property. 55951

All moneys collected as sanitary rates, charges, or penalties 55952
fixed or established in accordance with divisions (A) and (B) of 55953
this section for any sewer district shall be paid to the county 55954
treasurer and kept in a separate and distinct sanitary fund 55955
established by the board to the credit of the district. Except as 55956
otherwise provided in any proceedings authorizing or providing for 55957
the security for and payment of any public obligations, or in any 55958
indenture or trust or other agreement securing public obligations, 55959
moneys in the sanitary fund shall be applied first to the payment 55960
of the cost of the management, maintenance, and operation of the 55961
sanitary facilities of, or used or operated for, the district, 55962

which cost may include the county's share of management, 55963
maintenance, and operation costs under cooperative contracts for 55964
the acquisition, construction, or use of sanitary facilities and, 55965
in accordance with a cost allocation plan adopted under division 55966
(E) of this section, payment of all allowable direct and indirect 55967
costs of the district, the county sanitary engineer or sanitary 55968
engineering department, or a federal or state grant program, 55969
incurred for sanitary purposes under this chapter, and shall be 55970
applied second to the payment of debt charges payable on any 55971
outstanding public obligations issued or incurred for the 55972
acquisition or construction of sanitary facilities for or serving 55973
the district, or for the funding of a bond retirement or other 55974
fund established for the payment of or security for the 55975
obligations. Any surplus remaining may be applied to the 55976
acquisition or construction of those facilities or for the payment 55977
of contributions to be made, or costs incurred, for the 55978
acquisition or construction of those facilities under cooperative 55979
contracts. Moneys in the sanitary fund shall not be expended other 55980
than for the use and benefit of the district. 55981

(D) The board may fix reasonable rates and charges, including 55982
connection charges and penalties for late payments, to be paid by 55983
any person or public agency owning or having possession or control 55984
of any properties that are connected with, capable of being served 55985
by, or otherwise served directly or indirectly by, drainage 55986
facilities owned or operated by or under the jurisdiction of the 55987
county, including, but not limited to, properties requiring, or 55988
lying within an area of the district requiring, in the judgment of 55989
the board, the collection, control, or abatement of waters 55990
originating or accumulating in, or flowing in, into, or through, 55991
the district, and may change those rates and charges from time to 55992
time as it considers advisable. The In addition, the board may fix 55993
the rates and charges in order to pay the costs of complying with 55994
the requirements of phase II of the storm water program of the 55995

national pollutant discharge elimination system established in 40 C.F.R. part 122. 55996
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The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122, the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge. 55998
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When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate: 56018
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(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a 56021
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county treasurer shall accept a payment in that amount when 56028
separately tendered as payment for the full amount of the unpaid 56029
drainage rates or charges and associated penalties. The lien shall 56030
be released immediately upon payment in full of the certified 56031
amount. 56032

(2) Collect the unpaid rates or charges, together with any 56033
penalties, by actions at law in the name of the county from an 56034
owner, tenant, or other person or public agency that is liable for 56035
the payment of the rates or charges; 56036

(3) Terminate, in accordance with established rules, the 56037
drainage service for the particular property until the unpaid 56038
rates or charges, together with any penalties, are paid in full; 56039

(4) Apply, to the extent required, any security deposit made 56040
in accordance with established rules to the payment of drainage 56041
rates and charges applicable to the particular property. 56042

All moneys collected as drainage rates, charges, or penalties 56043
in or for any sewer district shall be paid to the county treasurer 56044
and kept in a separate and distinct drainage fund established by 56045
the board to the credit of the district. Except as otherwise 56046
provided in any proceedings authorizing or providing for the 56047
security for and payment of any public obligations, or in any 56048
indenture or trust or other agreement securing public obligations, 56049
moneys in the drainage fund shall be applied first to the payment 56050
of the cost of the management, maintenance, and operation of the 56051
drainage facilities of, or used or operated for, the district, 56052
which cost may include the county's share of management, 56053
maintenance, and operation costs under cooperative contracts for 56054
the acquisition, construction, or use of drainage facilities and, 56055
in accordance with a cost allocation plan adopted under division 56056
(E) of this section, payment of all allowable direct and indirect 56057
costs of the district, the county sanitary engineer or sanitary 56058
engineering department, or a federal or state grant program, 56059

incurred for drainage purposes under this chapter, and shall be 56060
applied second to the payment of debt charges payable on any 56061
outstanding public obligations issued or incurred for the 56062
acquisition or construction of drainage facilities for or serving 56063
the district, or for the funding of a bond retirement or other 56064
fund established for the payment of or security for the 56065
obligations. Any surplus remaining may be applied to the 56066
acquisition or construction of those facilities or for the payment 56067
of contributions to be made, or costs incurred, for the 56068
acquisition or construction of those facilities under cooperative 56069
contracts. Moneys in the drainage fund shall not be expended other 56070
than for the use and benefit of the district. 56071

(E) A board of county commissioners may adopt a cost 56072
allocation plan that identifies, accumulates, and distributes 56073
allowable direct and indirect costs that may be paid from each of 56074
the funds of the district created pursuant to divisions (C) and 56075
(D) of this section, and that prescribes methods for allocating 56076
those costs. The plan shall authorize payment from each of those 56077
funds of only those costs incurred by the district, the county 56078
sanitary engineer or sanitary engineering department, or a federal 56079
or state grant program, and those costs incurred by the general 56080
and other funds of the county for a common or joint purpose, that 56081
are necessary and reasonable for the proper and efficient 56082
administration of the district under this chapter and properly 56083
attributable to the particular fund of the district. The plan 56084
shall not authorize payment from either of the funds of any 56085
general government expense required to carry out the overall 56086
governmental responsibilities of a county. The plan shall conform 56087
to United States office of management and budget Circular A-87, 56088
"Cost Principles for State, Local, and Indian Tribal Governments," 56089
published May 17, 1995. 56090

Section 2. That existing sections 9.01, 9.83, 101.34, 101.72, 56091

101.82, 102.02, 109.57, 109.572, 117.45, 121.04, 121.08, 121.084, 56092
121.62, 122.011, 122.04, 122.08, 122.25, 122.651, 122.658, 122.87, 56093
122.88, 123.01, 124.03, 125.05, 125.06, 125.07, 125.15, 125.22, 56094
125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 126.03, 127.16, 56095
131.02, 131.23, 131.35, 135.22, 147.01, 147.37, 149.011, 149.30, 56096
149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.27, 56097
173.26, 175.03, 175.21, 175.22, 183.02, 307.86, 307.87, 307.93, 56098
311.17, 323.01, 325.31, 329.03, 329.04, 329.051, 340.021, 340.03, 56099
341.05, 341.25, 504.03, 504.04, 507.09, 715.013, 718.01, 718.02, 56100
718.05, 718.11, 753.22, 901.17, 901.21, 921.151, 927.53, 927.69, 56101
1306.20, 1309.109, 1321.21, 1333.99, 1501.04, 1503.05, 1513.05, 56102
1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 56103
1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 56104
1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 56105
1533.632, 1533.71, 1533.82, 1551.11, 1551.12, 1551.15, 1551.311, 56106
1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 56107
1555.06, 1555.08, 1555.17, 1711.09, 1711.11, 2101.16, 2117.06, 56108
2117.25, 2151.011, 2151.352, 2151.3529, 2151.3530, 2151.83, 56109
2151.84, 2301.58, 2305.234, 2329.07, 2329.66, 2715.041, 2715.045, 56110
2716.13, 2743.02, 2921.13, 2929.38, 2935.36, 2949.091, 3111.04, 56111
3111.72, 3119.01, 3123.952, 3301.33, 3301.52, 3301.53, 3301.54, 56112
3301.55, 3301.57, 3301.58, 3311.24, 3311.52, 3313.41, 3313.48, 56113
3313.533, 3313.62, 3313.647, 3313.90, 3313.979, 3313.981, 3314.02, 56114
3314.03, 3314.041, 3314.07, 3314.08, 3316.08, 3317.01, 3317.012, 56115
3317.013, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 56116
3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 56117
3317.081, 3317.09, 3317.10, 3317.16, 3318.01, 3318.03, 3318.033, 56118
3318.37, 3318.41, 3319.01, 3319.02, 3319.03, 3319.07, 3319.19, 56119
3319.22, 3319.227, 3319.302, 3319.33, 3319.36, 3323.12, 3323.16, 56120
3327.01, 3327.011, 3329.06, 3329.08, 3332.04, 3333.12, 3361.01, 56121
3365.04, 3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30, 56122
3503.10, 3505.08, 3517.092, 3701.021, 3701.022, 3701.024, 56123
3701.141, 3701.145, 3701.46, 3702.31, 3702.68, 3702.74, 3705.01, 56124

3705.02, 3705.06, 3705.07, 3705.08, 3705.16, 3705.17, 3705.22,	56125
3705.23, 3705.24, 3705.26, 3705.28, 3709.09, 3710.05, 3711.021,	56126
3717.42, 3721.02, 3721.19, 3727.17, 3733.43, 3733.45, 3734.02,	56127
3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42,	56128
3734.44, 3734.46, 3734.57, 3737.01, 3737.02, 3737.21, 3737.22,	56129
3737.71, 3737.81, 3737.88, 3737.881, 3737.882, 3737.883, 3737.89,	56130
3737.91, 3737.92, 3737.98, 3741.14, 3743.57, 3743.75, 3745.04,	56131
3745.11, 3745.14, 3745.40, 3746.02, 3746.13, 3748.07, 3748.13,	56132
3770.02, 3770.03, 3770.05, 3770.06, 3770.07, 3770.08, 3770.10,	56133
3770.99, 3773.33, 3773.43, 3781.19, 3901.86, 4104.01, 4104.02,	56134
4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19,	56135
4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17, 4112.15,	56136
4115.10, 4117.02, 4117.14, 4123.27, 4123.41, 4141.04, 4141.09,	56137
4301.03, 4503.234, 4511.191, 4511.75, 4561.18, 4561.21, 4707.071,	56138
4707.072, 4707.10, 4709.12, 4717.01, 4717.07, 4717.09, 4719.01,	56139
4723.06, 4723.08, 4723.082, 4723.17, 4725.01, 4725.02, 4725.03,	56140
4725.04, 4725.05, 4725.06, 4725.07, 4725.08, 4725.09, 4725.10,	56141
4725.11, 4725.12, 4725.13, 4725.15, 4725.16, 4725.17, 4725.171,	56142
4725.18, 4725.19, 4725.20, 4725.21, 4725.22, 4725.23, 4725.24,	56143
4725.26, 4725.27, 4725.28, 4725.29, 4725.31, 4725.33, 4725.34,	56144
4725.99, 4731.65, 4731.71, 4734.15, 4734.99, 4736.12, 4743.05,	56145
4747.05, 4747.06, 4747.07, 4747.10, 4751.06, 4751.07, 4759.08,	56146
4771.22, 4779.08, 4779.09, 4779.10, 4779.11, 4779.12, 4779.15,	56147
4779.16, 4779.17, 4779.18, 4779.20, 4779.21, 4779.22, 4779.23,	56148
4779.24, 4779.25, 4779.26, 4779.27, 4779.30, 4779.32, 4779.33,	56149
4903.24, 4905.79, 4905.91, 4919.79, 4931.45, 4931.47, 4931.48,	56150
4973.17, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145,	56151
5101.146, 5101.16, 5101.18, 5101.181, 5101.36, 5101.58, 5101.59,	56152
5101.75, 5101.80, 5101.83, 5101.97, 5103.031, 5103.033, 5103.034,	56153
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314,	56154
5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 5104.02,	56155
5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 5107.37, 5107.40,	56156
5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 5108.10,	56157

5111.016, 5111.019, 5111.0112, 5111.02, 5111.022, 5111.03, 56158
5111.06, 5111.08, 5111.111, 5111.16, 5111.17, 5111.171, 5111.20, 56159
5111.21, 5111.22, 5111.23, 5111.24, 5111.25, 5111.251, 5111.252, 56160
5111.262, 5111.28, 5111.29, 5111.30, 5111.31, 5111.34, 5111.81, 56161
5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.94, 5112.03, 56162
5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 56163
5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 56164
5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 5123.19, 5123.60, 56165
5123.801, 5126.01, 5126.042, 5126.12, 5139.36, 5139.41, 5139.87, 56166
5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5502.13, 5513.01, 56167
5515.07, 5705.39, 5705.41, 5709.62, 5709.63, 5709.632, 5709.64, 56168
5713.10, 5717.03, 5727.111, 5727.30, 5727.32, 5727.33, 5733.04, 56169
5733.05, 5733.056, 5733.09, 5733.121, 5733.98, 5735.05, 5735.23, 56170
5735.26, 5735.291, 5735.30, 5739.01, 5739.011, 5739.02, 5739.12, 56171
5741.02, 5743.05, 5745.01, 5745.02, 5745.03, 5745.04, 5747.12, 56172
5903.12, 6109.21, and 6117.02, and sections 122.12, 125.831, 56173
125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 173.45, 56174
173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 56175
173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 504.21, 718.03, 56176
1333.96, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 56177
1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 56178
2305.26, 3301.0719, 3301.078, 3301.0724, 3301.31, 3301.581, 56179
3302.041, 3313.481, 3313.482, 3313.82, 3313.83, 3313.94, 3317.11, 56180
3318.052, 3318.35, 3318.351, 3319.06, 3319.34, 3701.142, 3701.144, 56181
4104.42, 4104.43, 4141.044, 4141.045, 4725.40, 4725.41, 4725.42, 56182
4725.43, 4725.44, 4725.45, 4725.46, 4725.47, 4725.48, 4725.49, 56183
4725.50, 4725.51, 4725.52, 4725.53, 4725.531, 4725.54, 4725.55, 56184
4725.56, 4725.57, 4725.58, 4725.59, 4779.05, 4779.06, 4779.07, 56185
5101.251, 5108.05, 5111.017, 5111.173, 5115.011, 5115.012, 56186
5115.06, 5115.061, 5727.39, and 5727.44 of the Revised Code are 56187
hereby repealed. 56188

Section 3.00. That existing Section 3 of Am. Sub. S.B. 272 of 56189

the 123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 123rd General Assembly, is hereby repealed.

Section 3.01. That the version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, be amended to read as follows:

Sec. 921.22. The pesticide program fund is hereby created in the state treasury. ~~All~~ The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section. The fund shall consist of fees collected under sections 921.01 to 921.15 and section 927.69 of the Revised Code, money collected under section 927.701 of the Revised Code, and all fines, penalties, costs, and damages, except court costs, that are collected by either the director of agriculture or the attorney general in consequence of any violation of this chapter.

Section 3.02. That the existing version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, is hereby repealed.

Section 3.03. Sections 3.01 and 3.02 of this act take effect July 1, 2004.

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 56218
amended to read as follows: 56219

Sec. 3332.04. The state board of career colleges and schools 56220
may appoint an executive director and such other staff as may be 56221
required for the performance of the board's duties and provide 56222
necessary facilities. In selecting an executive director, the 56223
board shall appoint an individual with a background or experience 56224
in the regulation of commerce, business, or education. The board 56225
may also arrange for services and facilities to be provided by the 56226
state board of education and the Ohio board of regents. All 56227
receipts of the board shall be deposited in the ~~career colleges~~ 56228
~~and schools operating fund, which is hereby created in the state~~ 56229
~~treasury. Moneys in the fund shall be used solely for the~~ 56230
~~administration and enforcement of Chapter 3332. of the Revised~~ 56231
~~Code. All investment earnings on the fund shall be credited to the~~ 56232
to the credit of the occupational licensing and regulatory fund. 56233

Section 3.05. That the version of section 3332.04 of the 56234
Revised Code that is scheduled to take effect on July 1, 2003, is 56235
hereby repealed. 56236

Section 3.06. Sections 3.04 and 3.05 of this act take effect 56237
July 1, 2003. 56238

Section 3.06A. That the version of section 2305.234 of the 56239
Revised Code that is scheduled to take effect January 1, 2004, be 56240
amended to read as follows: 56241

Sec. 2305.234. (A) As used in this section: 56242

(1) "Chiropractic claim," "medical claim," and "optometric 56243
claim" have the same meanings as in section 2305.113 of the 56244
Revised Code. 56245

(2) "Dental claim" has the same meaning as in section	56246
2305.113 of the Revised Code, except that it does not include any	56247
claim arising out of a dental operation or any derivative claim	56248
for relief that arises out of a dental operation.	56249
(3) "Governmental health care program" has the same meaning	56250
as in section 4731.65 of the Revised Code.	56251
(4) "Health care professional" means any of the following who	56252
provide medical, dental, or other health-related diagnosis, care,	56253
or treatment:	56254
(a) Physicians authorized under Chapter 4731. of the Revised	56255
Code to practice medicine and surgery or osteopathic medicine and	56256
surgery;	56257
(b) Registered nurses, advanced practice nurses, and licensed	56258
practical nurses licensed under Chapter 4723. of the Revised Code;	56259
(c) Physician assistants authorized to practice under Chapter	56260
4730. of the Revised Code;	56261
(d) Dentists and dental hygienists licensed under Chapter	56262
4715. of the Revised Code;	56263
(e) Physical therapists licensed under Chapter 4755. of the	56264
Revised Code;	56265
(f) Chiropractors licensed under Chapter 4734. of the Revised	56266
Code;	56267
(g) Optometrists licensed under Chapter 4725. of the Revised	56268
Code;	56269
(h) Podiatrists authorized under Chapter 4731. of the Revised	56270
Code to practice podiatry;	56271
(i) Dietitians licensed under Chapter 4759. of the Revised	56272
Code;	56273
(j) Pharmacists licensed under Chapter 4729. of the Revised	56274

Code;	56275
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	56276 56277 56278 56279
(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, dental assistants, orderlies, aides, and individuals acting in similar capacities.	56280 56281 56282 56283 56284 56285 56286
(6) "Indigent and uninsured person" means a person who meets all of the following requirements:	56287 56288
(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.	56289 56290 56291 56292 56293
(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.	56294 56295 56296 56297
(c) Either of the following applies:	56298
(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.	56299 56300 56301 56302
(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member,	56303 56304

beneficiary, or other covered individual under a health insurance 56305
or health care policy, contract, or plan, but the insurer, policy, 56306
contract, or plan denies coverage or is the subject of insolvency 56307
or bankruptcy proceedings in any jurisdiction. 56308

(7) "Operation" means any procedure that involves cutting or 56309
otherwise infiltrating human tissue by mechanical means, including 56310
surgery, laser surgery, ionizing radiation, therapeutic 56311
ultrasound, or the removal of intraocular foreign bodies. 56312
"Operation" does not include the administration of medication by 56313
injection, unless the injection is administered in conjunction 56314
with a procedure infiltrating human tissue by mechanical means 56315
other than the administration of medicine by injection. 56316

(8) "Nonprofit shelter or health care facility" means a 56317
charitable nonprofit corporation organized and operated pursuant 56318
to Chapter 1702. of the Revised Code, or any charitable 56319
organization not organized and not operated for profit, that 56320
provides shelter, health care services, or shelter and health care 56321
services to indigent and uninsured persons, except that "shelter 56322
or health care facility" does not include a hospital as defined in 56323
section 3727.01 of the Revised Code, a facility licensed under 56324
Chapter 3721. of the Revised Code, or a medical facility that is 56325
operated for profit. 56326

(9) "Tort action" means a civil action for damages for 56327
injury, death, or loss to person or property other than a civil 56328
action for damages for a breach of contract or another agreement 56329
between persons or government entities. 56330

(10) "Volunteer" means an individual who provides any 56331
medical, dental, or other health-care related diagnosis, care, or 56332
treatment without the expectation of receiving and without receipt 56333
of any compensation or other form of remuneration from an indigent 56334
and uninsured person, another person on behalf of an indigent and 56335
uninsured person, any shelter or health care facility, or any 56336

other person or government entity. 56337

(11) "Community control sanction" has the same meaning as in 56338
section 2929.01 of the Revised Code. 56339

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 56340
health care professional who is a volunteer and complies with 56341
division (B)(2) of this section is not liable in damages to any 56342
person or government entity in a tort or other civil action, 56343
including an action on a medical, dental, chiropractic, 56344
optometric, or other health-related claim, for injury, death, or 56345
loss to person or property that allegedly arises from an action or 56346
omission of the volunteer in the provision at a nonprofit shelter 56347
or health care facility to an indigent and uninsured person of 56348
medical, dental, or other health-related diagnosis, care, or 56349
treatment, including the provision of samples of medicine and 56350
other medical products, unless the action or omission constitutes 56351
willful or wanton misconduct. 56352

(2) To qualify for the immunity described in division (B)(1) 56353
of this section, a health care professional shall do all of the 56354
following prior to providing diagnosis, care, or treatment: 56355

(a) Determine, in good faith, that the indigent and uninsured 56356
person is mentally capable of giving informed consent to the 56357
provision of the diagnosis, care, or treatment and is not subject 56358
to duress or under undue influence; 56359

(b) Inform the person of the provisions of this section; 56360

(c) Obtain the informed consent of the person and a written 56361
waiver, signed by the person or by another individual on behalf of 56362
and in the presence of the person, that states that the person is 56363
mentally competent to give informed consent and, without being 56364
subject to duress or under undue influence, gives informed consent 56365
to the provision of the diagnosis, care, or treatment subject to 56366
the provisions of this section. 56367

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section 3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit

shelter or health care facility if, at the time of an alleged 56400
injury, death, or loss to person or property, the individuals 56401
involved are providing one of the following: 56402

(a) Any medical, dental, or other health-related diagnosis, 56403
care, or treatment pursuant to a community service work order 56404
entered by a court under division (B) of section 2951.02 of the 56405
Revised Code or imposed by a court as a community control 56406
sanction; 56407

(b) Performance of an operation; 56408

(c) Delivery of a baby. 56409

(2) Division (E)(1) of this section does not apply to an 56410
individual who provides, or a nonprofit shelter or health care 56411
facility at which the individual provides, diagnosis, care, or 56412
treatment that is necessary to preserve the life of a person in a 56413
medical emergency. 56414

(F)(1) This section does not create a new cause of action or 56415
substantive legal right against a health care professional, health 56416
care worker, or nonprofit shelter or health care facility. 56417

(2) This section does not affect any immunities from civil 56418
liability or defenses established by another section of the 56419
Revised Code or available at common law to which an individual or 56420
a nonprofit shelter or health care facility may be entitled in 56421
connection with the provision of emergency or other diagnosis, 56422
care, or treatment. 56423

(3) This section does not grant an immunity from tort or 56424
other civil liability to an individual or a nonprofit shelter or 56425
health care facility for actions that are outside the scope of 56426
authority of health care professionals or health care workers. 56427

(4) This section does not affect any legal responsibility of 56428
a health care professional or health care worker to comply with 56429

any applicable law of this state or rule of an agency of this state. 56430
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(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. 56432
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Section 3.06B. That the existing version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed. 56438
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Section 3.06C. Sections 3.06A and 3.06B of this act take effect January 1, 2004. 56441
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Section 3.06D. That the version of section 3734.44 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows: 56443
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Sec. 3734.44. Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection, ~~the hazardous waste facility board,~~ or a board of health: 56446
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(A) Unless the director, ~~the hazardous waste facility board,~~ or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record 56450
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exists, that the applicant is likely to exhibit that reliability,	56459
expertise, and competence;	56460
(B) If any individual or business concern required to be	56461
listed in the disclosure statement or shown to have a beneficial	56462
interest in the business of the applicant or the permittee, other	56463
than an equity interest or debt liability, by the investigation	56464
thereof, has been convicted of any of the following crimes under	56465
the laws of this state or equivalent laws of any other	56466
jurisdiction:	56467
(1) Murder;	56468
(2) Kidnapping;	56469
(3) Gambling;	56470
(4) Robbery;	56471
(5) Bribery;	56472
(6) Extortion;	56473
(7) Criminal usury;	56474
(8) Arson;	56475
(9) Burglary;	56476
(10) Theft and related crimes;	56477
(11) Forgery and fraudulent practices;	56478
(12) Fraud in the offering, sale, or purchase of securities;	56479
(13) Alteration of motor vehicle identification numbers;	56480
(14) Unlawful manufacture, purchase, use, or transfer of	56481
firearms;	56482
(15) Unlawful possession or use of destructive devices or	56483
explosives;	56484
(16) A violation of section 2925.03, 2925.04, 2925.05,	56485
2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the	56486

Revised Code, unless the violation is for possession of less than 56487
one hundred grams of marihuana, less than five grams of marihuana 56488
resin or extraction or preparation of marihuana resin, or less 56489
than one gram of marihuana resin in a liquid concentrate, liquid 56490
extract, or liquid distillate form; 56491

(17) Engaging in a pattern of corrupt activity under section 56492
2923.32 of the Revised Code; 56493

(18) A violation of the criminal provisions of Chapter 1331. 56494
of the Revised Code; 56495

(19) Any violation of the criminal provisions of any federal 56496
or state environmental protection laws, rules, or regulations that 56497
is committed knowingly or recklessly, as defined in section 56498
2901.22 of the Revised Code; 56499

(20) A violation of any provision of Chapter 2909. of the 56500
Revised Code; 56501

(21) Any offense specified in Chapter 2921. of the Revised 56502
Code. 56503

(C) Notwithstanding division (B) of this section, no 56504
applicant shall be denied the issuance or renewal of a permit or 56505
license on the basis of a conviction of any individual or business 56506
concern required to be listed in the disclosure statement or shown 56507
to have a beneficial interest in the business of the applicant or 56508
the permittee, other than an equity interest or debt liability, by 56509
the investigation thereof for any of the offenses enumerated in 56510
that division as disqualification criteria if that applicant has 56511
affirmatively demonstrated rehabilitation of the individual or 56512
business concern by a preponderance of the evidence. If any such 56513
individual was convicted of any of the offenses so enumerated that 56514
are felonies, a permit shall be denied unless five years have 56515
elapsed since the individual was fully discharged from 56516
imprisonment and parole for the offense, from a community control 56517

sanction imposed under section 2929.15 of the Revised Code, from a 56518
post-release control sanction imposed under section 2967.28 of the 56519
Revised Code for the offense, or imprisonment, probation, and 56520
parole for an offense that was committed prior to July 1, 1996. In 56521
determining whether an applicant has affirmatively demonstrated 56522
rehabilitation, the director, ~~the hazardous waste facility board,~~ 56523
or the board of health shall request a recommendation on the 56524
matter from the attorney general and shall consider and base the 56525
determination on the following factors: 56526

(1) The nature and responsibilities of the position a 56527
convicted individual would hold; 56528

(2) The nature and seriousness of the offense; 56529

(3) The circumstances under which the offense occurred; 56530

(4) The date of the offense; 56531

(5) The age of the individual when the offense was committed; 56532

(6) Whether the offense was an isolated or repeated incident; 56533

(7) Any social conditions that may have contributed to the 56534
offense; 56535

(8) Any evidence of rehabilitation, including good conduct in 56536
prison or in the community, counseling or psychiatric treatment 56537
received, acquisition of additional academic or vocational 56538
schooling, successful participation in correctional work release 56539
programs, or the recommendation of persons who have or have had 56540
the applicant under their supervision; 56541

(9) In the instance of an applicant that is a business 56542
concern, rehabilitation shall be established if the applicant has 56543
implemented formal management controls to minimize and prevent the 56544
occurrence of violations and activities that will or may result in 56545
permit or license denial or revocation or if the applicant has 56546
formalized those controls as a result of a revocation or denial of 56547

a permit or license. Those controls may include, but are not 56548
limited to, instituting environmental auditing programs to help 56549
ensure the adequacy of internal systems to achieve, maintain, and 56550
monitor compliance with applicable environmental laws and 56551
standards or instituting an antitrust compliance auditing program 56552
to help ensure full compliance with applicable antitrust laws. The 56553
business concern shall prove by a preponderance of the evidence 56554
that the management controls are effective in preventing the 56555
violations that are the subject of concern. 56556

(D) Unless the director, ~~the hazardous waste facility board,~~ 56557
or the board of health finds that the applicant has a history of 56558
compliance with environmental laws in this state and other 56559
jurisdictions and is presently in substantial compliance with, or 56560
on a legally enforceable schedule that will result in compliance 56561
with, environmental laws in this state and other jurisdictions; 56562

(E) With respect to the approval of a permit, if the director 56563
~~or the hazardous waste facility board~~ determines that current 56564
prosecutions or pending charges in any jurisdiction for any of the 56565
offenses enumerated in division (B) of this section against any 56566
individual or business concern required to be listed in the 56567
disclosure statement or shown by the investigation to have a 56568
beneficial interest in the business of the applicant other than an 56569
equity interest or debt liability are of such magnitude that they 56570
prevent making the finding required under division (A) of this 56571
section, provided that at the request of the applicant or the 56572
individual or business concern charged, the director ~~or the~~ 56573
~~hazardous waste facility board~~ shall defer decision upon the 56574
application during the pendency of the charge. 56575

Section 3.06E. That the existing version of section 3734.44 56576
of the Revised Code that is scheduled to take effect on January 1, 56577
2004, is hereby repealed. 56578

Section 3.06F. Sections 3.06D and 3.06E of this act take 56579
effect January 1, 2004. 56580

Section 3.07. That the versions of sections 4503.234, 56581
4511.191, and 4511.75 of the Revised Code that are scheduled to 56582
take effect January 1, 2004, be amended to read as follows: 56583

Sec. 4503.234. (A) If a court is required by section 56584
4503.233, 4503.236, 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 56585
4511.193, or 4511.203 of the Revised Code to order the criminal 56586
forfeiture of a vehicle, the order shall be issued and enforced in 56587
accordance with this division, subject to division (B) of this 56588
section. An order of criminal forfeiture issued under this 56589
division shall authorize an appropriate law enforcement agency to 56590
seize the vehicle ordered criminally forfeited upon the terms and 56591
conditions that the court determines proper. No vehicle ordered 56592
criminally forfeited pursuant to this division shall be considered 56593
contraband for purposes of section 2933.41, 2933.42, or 2933.43 of 56594
the Revised Code, but the law enforcement agency that employs the 56595
officer who seized it shall hold the vehicle for disposal in 56596
accordance with this section. A forfeiture order may be issued 56597
only after the offender has been provided with an opportunity to 56598
be heard. The prosecuting attorney shall give the offender written 56599
notice of the possibility of forfeiture by sending a copy of the 56600
relevant uniform traffic ticket or other written notice to the 56601
offender not less than seven days prior to the date of issuance of 56602
the forfeiture order. A vehicle is subject to an order of criminal 56603
forfeiture pursuant to this division upon the conviction of the 56604
offender of or plea of guilty by the offender to a violation of 56605
division (A) of section 4503.236, section 4510.11, 4510.14, 56606
4510.16, or 4511.203, or division (A) of section 4511.19 of the 56607
Revised Code, or a municipal ordinance that is substantially 56608

equivalent to any of those sections or divisions. 56609

(B)(1) Prior to the issuance of an order of criminal 56610
forfeiture pursuant to this section, the law enforcement agency 56611
that employs the law enforcement officer who seized the vehicle 56612
shall conduct or cause to be conducted a search of the appropriate 56613
public records that relate to the vehicle and shall make or cause 56614
to be made reasonably diligent inquiries to identify any 56615
lienholder or any person or entity with an ownership interest in 56616
the vehicle. The court that is to issue the forfeiture order also 56617
shall cause a notice of the potential order relative to the 56618
vehicle and of the expected manner of disposition of the vehicle 56619
after its forfeiture to be sent to any lienholder or person who is 56620
known to the court to have any right, title, or interest in the 56621
vehicle. The court shall give the notice by certified mail, return 56622
receipt requested, or by personal service. 56623

(2) No order of criminal forfeiture shall be issued pursuant 56624
to this section if a lienholder or other person with an ownership 56625
interest in the vehicle establishes to the court, by a 56626
preponderance of the evidence after filing a motion with the 56627
court, that the lienholder or other person neither knew nor should 56628
have known after a reasonable inquiry that the vehicle would be 56629
used or involved, or likely would be used or involved, in the 56630
violation resulting in the issuance of the order of criminal 56631
forfeiture or the violation of the order of immobilization issued 56632
under section 4503.233 of the Revised Code, that the lienholder or 56633
other person did not expressly or impliedly consent to the use or 56634
involvement of the vehicle in that violation, and that the lien or 56635
ownership interest was perfected pursuant to law prior to the 56636
seizure of the vehicle under section 4503.236, 4510.41, 4511.195, 56637
or 4511.203 of the Revised Code. If the lienholder or holder of 56638
the ownership interest satisfies the court that these criteria 56639
have been met, the court shall preserve the lienholder's or other 56640

person's lien or interest, and the court either shall return the 56641
vehicle to the holder, or shall order that the proceeds of any 56642
sale held pursuant to division (C)(2) of this section be paid to 56643
the lienholder or holder of the interest less the costs of 56644
seizure, storage, and maintenance of the vehicle. The court shall 56645
not return a vehicle to a lienholder or a holder of an ownership 56646
interest unless the lienholder or holder submits an affidavit to 56647
the court that states that the lienholder or holder will not 56648
return the vehicle to the person from whom the vehicle was seized 56649
pursuant to the order of criminal forfeiture or to any member of 56650
that person's family and will not otherwise knowingly permit that 56651
person or any member of that person's family to obtain possession 56652
of the vehicle. 56653

(3) No order of criminal forfeiture shall be issued pursuant 56654
to this section if a person with an interest in the vehicle 56655
establishes to the court, by a preponderance of the evidence after 56656
filing a motion with the court, that the person neither knew nor 56657
should have known after a reasonable inquiry that the vehicle had 56658
been used or was involved in the violation resulting in the 56659
issuance of the order of criminal forfeiture or the violation of 56660
the order of immobilization issued under section 4503.233 of the 56661
Revised Code, that the person did not expressly or impliedly 56662
consent to the use or involvement of the vehicle in that 56663
violation, that the interest was perfected in good faith and for 56664
value pursuant to law between the time of the arrest of the 56665
offender and the final disposition of the criminal charge in 56666
question, and that the vehicle was in the possession of the 56667
interest holder at the time of the perfection of the interest. If 56668
the court is satisfied that the interest holder has met these 56669
criteria, the court shall preserve the interest holder's interest, 56670
and the court either shall return the vehicle to the interest 56671
holder or order that the proceeds of any sale held pursuant to 56672
division (C) of this section be paid to the holder of the interest 56673

less the costs of seizure, storage, and maintenance of the 56674
vehicle. The court shall not return a vehicle to an interest 56675
holder unless the holder submits an affidavit to the court stating 56676
that the holder will not return the vehicle to the person from 56677
whom the holder acquired the holder's interest, nor to any member 56678
of that person's family, and the holder will not otherwise 56679
knowingly permit that person or any member of that person's family 56680
to obtain possession of the vehicle. 56681

(C) A vehicle ordered criminally forfeited to the state 56682
pursuant to this section shall be disposed of as follows: 56683

(1) It shall be given to the law enforcement agency that 56684
employs the law enforcement officer who seized the vehicle, if 56685
that agency desires to have it; 56686

(2) If a vehicle is not disposed of pursuant to division 56687
(C)(1) of this section, the vehicle shall be sold, without 56688
appraisal, if the value of the vehicle is two thousand dollars or 56689
more as determined by publications of the national auto dealer's 56690
association, at a public auction to the highest bidder for cash. 56691
Prior to the sale, the prosecuting attorney in the case shall 56692
cause a notice of the proposed sale to be given in accordance with 56693
law. The court shall cause notice of the sale of the vehicle to be 56694
published in a newspaper of general circulation in the county in 56695
which the court is located at least seven days prior to the date 56696
of the sale. The proceeds of a sale under this division or 56697
division (F) of this section shall be applied in the following 56698
order: 56699

(a) First, they shall be applied to the payment of the costs 56700
incurred in connection with the seizure, storage, and maintenance 56701
of, and provision of security for, the vehicle, any proceeding 56702
arising out of the forfeiture, and if any, the sale. 56703

(b) Second, the remaining proceeds after compliance with 56704

division (C)(2)(a) of this section, shall be applied to the 56705
payment of the value of any lien or ownership interest in the 56706
vehicle preserved under division (B) of this section. 56707

(c) Third, the remaining proceeds, after compliance with 56708
divisions (C)(2)(a) and (b) of this section, shall be applied to 56709
the appropriate funds in accordance with divisions (D)(1)(c) and 56710
(2) of section 2933.43 of the Revised Code, provided that the 56711
total of the amount so deposited under this division shall not 56712
exceed one thousand dollars. The remaining proceeds deposited 56713
under this division shall be used only for the purposes authorized 56714
by those divisions and division (D)(3)(a)(ii) of that section. 56715

(d) Fourth, the remaining proceeds after compliance with 56716
divisions (C)(2)(a) and (b) of this section and after deposit of a 56717
total amount of one thousand dollars under division (C)(2)(c) of 56718
this section shall be applied so that ~~fifty~~ seventy-five per cent 56719
of those remaining proceeds is paid into the reparation fund 56720
established by section 2743.191 of the Revised Code, ~~twenty-five~~ 56721
~~per cent is paid into the drug abuse resistance education programs~~ 56722
~~fund created by division (F)(2)(c) of section 4511.191 of the~~ 56723
~~Revised Code and shall be used only for the purposes authorized by~~ 56724
~~division (F)(2)(c) of that section,~~ and twenty-five per cent is 56725
applied to the appropriate funds in accordance with division 56726
(D)(1)(c) of section 2933.43 of the Revised Code. The proceeds 56727
deposited into any fund described in section 2933.43 of the 56728
Revised Code shall be used only for the purposes authorized by 56729
division (D)(1)(c), (2), and (3)(a)(ii) of that section. 56730

(D) Except as provided in division (E) of section 4511.203 of 56731
the Revised Code and notwithstanding any other provision of law, 56732
neither the registrar of motor vehicles nor any deputy registrar 56733
shall accept an application for the registration of any motor 56734
vehicle in the name of any person, or register any motor vehicle 56735
in the name of any person, if both of the following apply: 56736

(1) Any vehicle registered in the person's name was 56737
criminally forfeited under this section and section 4503.233, 56738
4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 56739
4511.19, 4511.193, or 4511.203 of the Revised Code; 56740

(2) Less than five years have expired since the issuance of 56741
the most recent order of criminal forfeiture issued in relation to 56742
a vehicle registered in the person's name. 56743

(E) If a court is required by section 4503.233, 4503.236, 56744
4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 56745
4511.193, or 4511.203 of the Revised Code to order the criminal 56746
forfeiture to the state of a vehicle, and the title to the motor 56747
vehicle is assigned or transferred, and division (B)(2) or (3) of 56748
this section applies, in addition to or independent of any other 56749
penalty established by law, the court may fine the offender the 56750
value of the vehicle as determined by publications of the national 56751
auto dealer's association. The proceeds from any fine imposed 56752
under this division shall be distributed in accordance with 56753
division (C)(2) of this section. 56754

(F) As used in this section and divisions (D)(1)(c), (D)(2), 56755
and (D)(3)(a)(ii) of section 2933.43 of the Revised Code in 56756
relation to proceeds of the sale of a vehicle under division (C) 56757
of this section, "prosecuting attorney" includes the prosecuting 56758
attorney, village solicitor, city director of law, or similar 56759
chief legal officer of a municipal corporation who prosecutes the 56760
case resulting in the conviction or guilty plea in question. 56761

(G) If the vehicle to be forfeited has an average retail 56762
value of less than two thousand dollars as determined by 56763
publications of the national auto dealer's association, no public 56764
auction is required to be held. In such a case, the court may 56765
direct that the vehicle be disposed of in any manner that it 56766
considers appropriate, including assignment of the certificate of 56767

title to the motor vehicle to a salvage dealer or a scrap metal 56768
processing facility. The court shall not transfer the vehicle to 56769
the person who is the vehicle's immediate previous owner. 56770

If the court assigns the motor vehicle to a salvage dealer or 56771
scrap metal processing facility and the court is in possession of 56772
the certificate of title to the motor vehicle, it shall send the 56773
assigned certificate of title to the motor vehicle to the clerk of 56774
the court of common pleas of the county in which the salvage 56775
dealer or scrap metal processing facility is located. The court 56776
shall mark the face of the certificate of title with the words 56777
"FOR DESTRUCTION" and shall deliver a photocopy of the certificate 56778
of title to the salvage dealer or scrap metal processing facility 56779
for its records. 56780

If the court is not in possession of the certificate of title 56781
to the motor vehicle, the court shall issue an order transferring 56782
ownership of the motor vehicle to a salvage dealer or scrap metal 56783
processing facility, send the order to the clerk of the court of 56784
common pleas of the county in which the salvage dealer or scrap 56785
metal processing facility is located, and send a photocopy of the 56786
order to the salvage dealer or scrap metal processing facility for 56787
its records. The clerk shall make the proper notations or entries 56788
in the clerk's records concerning the disposition of the motor 56789
vehicle. 56790

Sec. 4511.191. (A)(1) "Physical control" has the same meaning 56791
as in section 4511.194 of the Revised Code. 56792

(2) Any person who operates a vehicle, streetcar, or 56793
trackless trolley upon a highway or any public or private property 56794
used by the public for vehicular travel or parking within this 56795
state or who is in physical control of a vehicle, streetcar, or 56796
trackless trolley shall be deemed to have given consent to a 56797
chemical test or tests of the person's whole blood, blood serum or 56798

plasma, breath, or urine to determine the alcohol, drug, or 56799
alcohol and drug content of the person's whole blood, blood serum 56800
or plasma, breath, or urine if arrested for a violation of 56801
division (A) or (B) of section 4511.19 of the Revised Code, 56802
section 4511.194 of the Revised Code, or a municipal OVI 56803
ordinance. 56804

(3) The chemical test or tests under division (A)(2) of this 56805
section shall be administered at the request of a law enforcement 56806
officer having reasonable grounds to believe the person was 56807
operating or in physical control of a vehicle, streetcar, or 56808
trackless trolley in violation of a division, section, or 56809
ordinance identified in division (A)(2) of this section. The law 56810
enforcement agency by which the officer is employed shall 56811
designate which of the tests shall be administered. 56812

(4) Any person who is dead or unconscious, or who otherwise 56813
is in a condition rendering the person incapable of refusal, shall 56814
be deemed to have consented as provided in division (A)(2) of this 56815
section, and the test or tests may be administered, subject to 56816
sections 313.12 to 313.16 of the Revised Code. 56817

(B)(1) Upon receipt of the sworn report of a law enforcement 56818
officer who arrested a person for a violation of division (A) or 56819
(B) of section 4511.19 of the Revised Code, section 4511.194 of 56820
the Revised Code, or a municipal OVI ordinance that was completed 56821
and sent to the registrar and a court pursuant to section 4511.192 56822
of the Revised Code in regard to a person who refused to take the 56823
designated chemical test, the registrar shall enter into the 56824
registrar's records the fact that the person's driver's or 56825
commercial driver's license or permit or nonresident operating 56826
privilege was suspended by the arresting officer under this 56827
division and that section and the period of the suspension, as 56828
determined under this section. The suspension shall be subject to 56829
appeal as provided in section 4511.197 of the Revised Code. The 56830

suspension shall be for whichever of the following periods 56831
applies: 56832

(a) Except when division (B)(1)(b), (c), or (d) of this 56833
section applies and specifies a different class or length of 56834
suspension, the suspension shall be a class C suspension for the 56835
period of time specified in division (B)(3) of section 4510.02 of 56836
the Revised Code. 56837

(b) If the arrested person, within six years of the date on 56838
which the person refused the request to consent to the chemical 56839
test, had refused one previous request to consent to a chemical 56840
test, the suspension shall be a class B suspension imposed for the 56841
period of time specified in division (B)(2) of section 4510.02 of 56842
the Revised Code. 56843

(c) If the arrested person, within six years of the date on 56844
which the person refused the request to consent to the chemical 56845
test, had refused two previous requests to consent to a chemical 56846
test, the suspension shall be a class A suspension imposed for the 56847
period of time specified in division (B)(1) of section 4510.02 of 56848
the Revised Code. 56849

(d) If the arrested person, within six years of the date on 56850
which the person refused the request to consent to the chemical 56851
test, had refused three or more previous requests to consent to a 56852
chemical test, the suspension shall be for five years. 56853

(2) The registrar shall terminate a suspension of the 56854
driver's or commercial driver's license or permit of a resident or 56855
of the operating privilege of a nonresident, or a denial of a 56856
driver's or commercial driver's license or permit, imposed 56857
pursuant to division (B)(1) of this section upon receipt of notice 56858
that the person has entered a plea of guilty to, or has been 56859
convicted of, operating a vehicle in violation of section 4511.19 56860
of the Revised Code or in violation of a municipal OVI ordinance, 56861

if the offense for which the conviction is had or the plea is 56862
entered arose from the same incident that led to the suspension or 56863
denial. 56864

The registrar shall credit against any judicial suspension of 56865
a person's driver's or commercial driver's license or permit or 56866
nonresident operating privilege imposed pursuant to section 56867
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 56868
Revised Code for a violation of a municipal OVI ordinance, any 56869
time during which the person serves a related suspension imposed 56870
pursuant to division (B)(1) of this section. 56871

(C)(1) Upon receipt of the sworn report of law enforcement 56872
officer who arrested a person for a violation of division (A) or 56873
(B) of section 4511.19 of the Revised Code or a municipal OVI 56874
ordinance that was completed and sent to the registrar and a court 56875
pursuant to section 4511.192 of the Revised Code in regard to a 56876
person whose test results indicate that the person's whole blood, 56877
blood serum or plasma, breath, or urine contained at least the 56878
concentration of alcohol specified in division (A)(2), (3), (4), 56879
or (5) of section 4511.19 of the Revised Code, the registrar shall 56880
enter into the registrar's records the fact that the person's 56881
driver's or commercial driver's license or permit or nonresident 56882
operating privilege was suspended by the arresting officer under 56883
this division and section 4511.192 of the Revised Code and the 56884
period of the suspension, as determined under divisions (F)(1) to 56885
(4) of this section. The suspension shall be subject to appeal as 56886
provided in section 4511.197 of the Revised Code. The suspension 56887
described in this division does not apply to, and shall not be 56888
imposed upon, a person arrested for a violation of section 56889
4511.194 of the Revised Code who submits to a designated chemical 56890
test. The suspension shall be for whichever of the following 56891
periods applies: 56892

(a) Except when division (C)(1)(b), (c), or (d) of this 56893

section applies and specifies a different period, the suspension 56894
shall be a class E suspension imposed for the period of time 56895
specified in division (B)(5) of section 4510.02 of the Revised 56896
Code. 56897

(b) The suspension shall be a class C suspension for the 56898
period of time specified in division (B)(3) of section 4510.02 of 56899
the Revised Code if the person has been convicted of or pleaded 56900
guilty to, within six years of the date the test was conducted, 56901
one violation of division (A) or (B) of section 4511.19 of the 56902
Revised Code or one other equivalent offense. 56903

(c) If, within six years of the date the test was conducted, 56904
the person has been convicted of or pleaded guilty to two 56905
violations of a statute or ordinance described in division 56906
(C)(1)(b) of this section, the suspension shall be a class B 56907
suspension imposed for the period of time specified in division 56908
(B)(2) of section 4510.02 of the Revised Code. 56909

(d) If, within six years of the date the test was conducted, 56910
the person has been convicted of or pleaded guilty to more than 56911
two violations of a statute or ordinance described in division 56912
(C)(1)(b) of this section, the suspension shall be a class A 56913
suspension imposed for the period of time specified in division 56914
(B)(1) of section 4510.02 of the Revised Code. 56915

(2) The registrar shall terminate a suspension of the 56916
driver's or commercial driver's license or permit of a resident or 56917
of the operating privilege of a nonresident, or a denial of a 56918
driver's or commercial driver's license or permit, imposed 56919
pursuant to division (C)(1) of this section upon receipt of notice 56920
that the person has entered a plea of guilty to, or has been 56921
convicted of, operating a vehicle in violation of section 4511.19 56922
of the Revised Code or in violation of a municipal OVI ordinance, 56923
if the offense for which the conviction is had or the plea is 56924
entered arose from the same incident that led to the suspension or 56925

denial. 56926

The registrar shall credit against any judicial suspension of 56927
a person's driver's or commercial driver's license or permit or 56928
nonresident operating privilege imposed pursuant to section 56929
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 56930
Revised Code for a violation of a municipal OVI ordinance, any 56931
time during which the person serves a related suspension imposed 56932
pursuant to division (C)(1) of this section. 56933

(D)(1) A suspension of a person's driver's or commercial 56934
driver's license or permit or nonresident operating privilege 56935
under this section for the time described in division (B) or (C) 56936
of this section is effective immediately from the time at which 56937
the arresting officer serves the notice of suspension upon the 56938
arrested person. Any subsequent finding that the person is not 56939
guilty of the charge that resulted in the person being requested 56940
to take the chemical test or tests under division (A) of this 56941
section does not affect the suspension. 56942

(2) If a person is arrested for operating a vehicle, 56943
streetcar, or trackless trolley in violation of division (A) or 56944
(B) of section 4511.19 of the Revised Code or a municipal OVI 56945
ordinance, or for being in physical control of a vehicle, 56946
streetcar, or trackless trolley in violation of section 4511.194 56947
of the Revised Code, regardless of whether the person's driver's 56948
or commercial driver's license or permit or nonresident operating 56949
privilege is or is not suspended under division (B) or (C) of this 56950
section or Chapter 4510. of the Revised Code, the person's initial 56951
appearance on the charge resulting from the arrest shall be held 56952
within five days of the person's arrest or the issuance of the 56953
citation to the person, subject to any continuance granted by the 56954
court pursuant to section 4511.197 of the Revised Code regarding 56955
the issues specified in that division. 56956

(E) When it finally has been determined under the procedures 56957

of this section and sections 4511.192 through 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated

pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 56990
director of alcohol and drug addiction services shall determine 56991
the share of the fund that is to be allocated to alcohol and drug 56992
addiction programs authorized by section 3793.02 of the Revised 56993
Code, and the share of the fund that is to be allocated to 56994
drivers' intervention programs authorized by section 3793.10 of 56995
the Revised Code. 56996

(b) Seventy-five dollars shall be credited to the reparations 56997
fund created by section 2743.191 of the Revised Code. 56998

(c) Thirty-seven dollars and fifty cents shall be credited to 56999
the indigent drivers alcohol treatment fund, which is hereby 57000
established. Except as otherwise provided in division (F)(2)(c) of 57001
this section, moneys in the fund shall be distributed by the 57002
department of alcohol and drug addiction services to the county 57003
indigent drivers alcohol treatment funds, the county juvenile 57004
indigent drivers alcohol treatment funds, and the municipal 57005
indigent drivers alcohol treatment funds that are required to be 57006
established by counties and municipal corporations pursuant to 57007
this section, and shall be used only to pay the cost of an alcohol 57008
and drug addiction treatment program attended by an offender or 57009
juvenile traffic offender who is ordered to attend an alcohol and 57010
drug addiction treatment program by a county, juvenile, or 57011
municipal court judge and who is determined by the county, 57012
juvenile, or municipal court judge not to have the means to pay 57013
for the person's attendance at the program or to pay the costs 57014
specified in division (H)(4) of this section in accordance with 57015
that division. Moneys in the fund that are not distributed to a 57016
county indigent drivers alcohol treatment fund, a county juvenile 57017
indigent drivers alcohol treatment fund, or a municipal indigent 57018
drivers alcohol treatment fund under division (H) of this section 57019
because the director of alcohol and drug addiction services does 57020
not have the information necessary to identify the county or 57021

municipal corporation where the offender or juvenile offender was 57022
arrested may be transferred by the director of budget and 57023
management to the statewide treatment and prevention fund created 57024
by section 4301.30 of the Revised Code, upon certification of the 57025
amount by the director of alcohol and drug addiction services. 57026

(d) Seventy-five dollars shall be credited to the Ohio 57027
rehabilitation services commission established by section 3304.12 57028
of the Revised Code, to the services for rehabilitation fund, 57029
which is hereby established. The fund shall be used to match 57030
available federal matching funds where appropriate, and for any 57031
other purpose or program of the commission to rehabilitate people 57032
with disabilities to help them become employed and independent. 57033

(e) ~~Seventy-five~~ Sixty dollars shall be ~~deposited into the~~ 57034
~~state treasury and~~ credited to the ~~drug abuse resistance education~~ 57035
public transportation grant programs fund, which is hereby 57036
established, to be used by the ~~attorney general for the purposes~~ 57037
~~specified in division (L)(4) of this section~~ department of 57038
transportation to match available federal public transportation 57039
funds and for the department's related operating expenses. 57040

(f) Thirty dollars shall be credited to the state bureau of 57041
motor vehicles fund created by section 4501.25 of the Revised 57042
Code. 57043

(g) Twenty dollars shall be credited to the trauma and 57044
emergency medical services grants fund created by section 4513.263 57045
of the Revised Code. 57046

(h) Fifteen dollars shall be credited to the public safety 57047
investigative unit fund, which is hereby established, to be used 57048
by the department of public safety investigative unit for the 57049
enforcement of the laws and rules described in division (B)(1) of 57050
section 5502.14 of the Revised Code. 57051

(3) If a person's driver's or commercial driver's license or 57052

permit is suspended under this section, under section 4511.196 or 57053
division (G) of section 4511.19 of the Revised Code, under section 57054
4510.07 of the Revised Code for a violation of a municipal OVI 57055
ordinance or under any combination of the suspensions described in 57056
division (F)(3) of this section, and if the suspensions arise from 57057
a single incident or a single set of facts and circumstances, the 57058
person is liable for payment of, and shall be required to pay to 57059
the bureau, only one reinstatement fee of four hundred twenty-five 57060
dollars. The reinstatement fee shall be distributed by the bureau 57061
in accordance with division (F)(2) of this section. 57062

~~(4) The attorney general shall use amounts in the drug abuse 57063
resistance education programs fund to award grants to law 57064
enforcement agencies to establish and implement drug abuse 57065
resistance education programs in public schools. Grants awarded to 57066
a law enforcement agency under this section shall be used by the 57067
agency to pay for not more than fifty per cent of the amount of 57068
the salaries of law enforcement officers who conduct drug abuse 57069
resistance education programs in public schools. The attorney 57070
general shall not use more than six per cent of the amounts the 57071
attorney general's office receives under division (F)(2)(e) of 57072
this section to pay the costs it incurs in administering the grant 57073
program established by division (F)(2)(e) of this section and in 57074
providing training and materials relating to drug abuse resistance 57075
education programs. 57076~~

~~The attorney general shall report to the governor and the 57077
general assembly each fiscal year on the progress made in 57078
establishing and implementing drug abuse resistance education 57079
programs. These reports shall include an evaluation of the 57080
effectiveness of these programs. 57081~~

(G) Suspension of a commercial driver's license under 57082
division (B) or (C) of this section shall be concurrent with any 57083
period of disqualification under section 3123.611 or 4506.16 of 57084

the Revised Code or any period of suspension under section 3123.58 57085
of the Revised Code. No person who is disqualified for life from 57086
holding a commercial driver's license under section 4506.16 of the 57087
Revised Code shall be issued a driver's license under Chapter 57088
4507. of the Revised Code during the period for which the 57089
commercial driver's license was suspended under division (B) or 57090
(C) of this section. No person whose commercial driver's license 57091
is suspended under division (B) or (C) of this section shall be 57092
issued a driver's license under Chapter 4507. of the Revised Code 57093
during the period of the suspension. 57094

(H)(1) Each county shall establish an indigent drivers 57095
alcohol treatment fund, each county shall establish a juvenile 57096
indigent drivers alcohol treatment fund, and each municipal 57097
corporation in which there is a municipal court shall establish an 57098
indigent drivers alcohol treatment fund. All revenue that the 57099
general assembly appropriates to the indigent drivers alcohol 57100
treatment fund for transfer to a county indigent drivers alcohol 57101
treatment fund, a county juvenile indigent drivers alcohol 57102
treatment fund, or a municipal indigent drivers alcohol treatment 57103
fund, all portions of fees that are paid under division (L) of 57104
this section and that are credited under that division to the 57105
indigent drivers alcohol treatment fund in the state treasury for 57106
a county indigent drivers alcohol treatment fund, a county 57107
juvenile indigent drivers alcohol treatment fund, or a municipal 57108
indigent drivers alcohol treatment fund, and all portions of fines 57109
that are specified for deposit into a county or municipal indigent 57110
drivers alcohol treatment fund by section 4511.193 of the Revised 57111
Code shall be deposited into that county indigent drivers alcohol 57112
treatment fund, county juvenile indigent drivers alcohol treatment 57113
fund, or municipal indigent drivers alcohol treatment fund in 57114
accordance with division (H)(2) of this section. Additionally, all 57115
portions of fines that are paid for a violation of section 4511.19 57116
of the Revised Code or of any prohibition contained in Chapter 57117

4510. of the Revised Code, and that are required under section 57118
4511.19 or any provision of Chapter 4510. of the Revised Code to 57119
be deposited into a county indigent drivers alcohol treatment fund 57120
or municipal indigent drivers alcohol treatment fund shall be 57121
deposited into the appropriate fund in accordance with the 57122
applicable division. 57123

(2) That portion of the license reinstatement fee that is 57124
paid under division (F) of this section and that is credited under 57125
that division to the indigent drivers alcohol treatment fund shall 57126
be deposited into a county indigent drivers alcohol treatment 57127
fund, a county juvenile indigent drivers alcohol treatment fund, 57128
or a municipal indigent drivers alcohol treatment fund as follows: 57129

(a) If the suspension in question was imposed under this 57130
section, that portion of the fee shall be deposited as follows: 57131

(i) If the fee is paid by a person who was charged in a 57132
county court with the violation that resulted in the suspension, 57133
the portion shall be deposited into the county indigent drivers 57134
alcohol treatment fund under the control of that court; 57135

(ii) If the fee is paid by a person who was charged in a 57136
juvenile court with the violation that resulted in the suspension, 57137
the portion shall be deposited into the county juvenile indigent 57138
drivers alcohol treatment fund established in the county served by 57139
the court; 57140

(iii) If the fee is paid by a person who was charged in a 57141
municipal court with the violation that resulted in the 57142
suspension, the portion shall be deposited into the municipal 57143
indigent drivers alcohol treatment fund under the control of that 57144
court. 57145

(b) If the suspension in question was imposed under section 57146
4511.19 of the Revised Code or under section 4510.07 of the 57147
Revised Code for a violation of a municipal OVI ordinance, that 57148

portion of the fee shall be deposited as follows: 57149

(i) If the fee is paid by a person whose license or permit 57150
was suspended by a county court, the portion shall be deposited 57151
into the county indigent drivers alcohol treatment fund under the 57152
control of that court; 57153

(ii) If the fee is paid by a person whose license or permit 57154
was suspended by a municipal court, the portion shall be deposited 57155
into the municipal indigent drivers alcohol treatment fund under 57156
the control of that court. 57157

(3) Expenditures from a county indigent drivers alcohol 57158
treatment fund, a county juvenile indigent drivers alcohol 57159
treatment fund, or a municipal indigent drivers alcohol treatment 57160
fund shall be made only upon the order of a county, juvenile, or 57161
municipal court judge and only for payment of the cost of the 57162
attendance at an alcohol and drug addiction treatment program of a 57163
person who is convicted of, or found to be a juvenile traffic 57164
offender by reason of, a violation of division (A) of section 57165
4511.19 of the Revised Code or a substantially similar municipal 57166
ordinance, who is ordered by the court to attend the alcohol and 57167
drug addiction treatment program, and who is determined by the 57168
court to be unable to pay the cost of attendance at the treatment 57169
program or for payment of the costs specified in division (H)(4) 57170
of this section in accordance with that division. The alcohol and 57171
drug addiction services board or the board of alcohol, drug 57172
addiction, and mental health services established pursuant to 57173
section 340.02 or 340.021 of the Revised Code and serving the 57174
alcohol, drug addiction, and mental health service district in 57175
which the court is located shall administer the indigent drivers 57176
alcohol treatment program of the court. When a court orders an 57177
offender or juvenile traffic offender to attend an alcohol and 57178
drug addiction treatment program, the board shall determine which 57179
program is suitable to meet the needs of the offender or juvenile 57180

traffic offender, and when a suitable program is located and space 57181
is available at the program, the offender or juvenile traffic 57182
offender shall attend the program designated by the board. A 57183
reasonable amount not to exceed five per cent of the amounts 57184
credited to and deposited into the county indigent drivers alcohol 57185
treatment fund, the county juvenile indigent drivers alcohol 57186
treatment fund, or the municipal indigent drivers alcohol 57187
treatment fund serving every court whose program is administered 57188
by that board shall be paid to the board to cover the costs it 57189
incurs in administering those indigent drivers alcohol treatment 57190
programs. 57191

(4) If a county, juvenile, or municipal court determines, in 57192
consultation with the alcohol and drug addiction services board or 57193
the board of alcohol, drug addiction, and mental health services 57194
established pursuant to section 340.02 or 340.021 of the Revised 57195
Code and serving the alcohol, drug addiction, and mental health 57196
district in which the court is located, that the funds in the 57197
county indigent drivers alcohol treatment fund, the county 57198
juvenile indigent drivers alcohol treatment fund, or the municipal 57199
indigent drivers alcohol treatment fund under the control of the 57200
court are more than sufficient to satisfy the purpose for which 57201
the fund was established, as specified in divisions (H)(1) to (3) 57202
of this section, the court may declare a surplus in the fund. If 57203
the court declares a surplus in the fund, the court may expend the 57204
amount of the surplus in the fund for alcohol and drug abuse 57205
assessment and treatment of persons who are charged in the court 57206
with committing a criminal offense or with being a delinquent 57207
child or juvenile traffic offender and in relation to whom both of 57208
the following apply: 57209

(a) The court determines that substance abuse was a 57210
contributing factor leading to the criminal or delinquent activity 57211
or the juvenile traffic offense with which the person is charged. 57212

(b) The court determines that the person is unable to pay the 57213
cost of the alcohol and drug abuse assessment and treatment for 57214
which the surplus money will be used. 57215

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 57216
trackless trolley upon meeting or overtaking from either direction 57217
any school bus stopped for the purpose of receiving or discharging 57218
any school child, person attending programs offered by community 57219
boards of mental health and county boards of mental retardation 57220
and developmental disabilities, or child attending a program 57221
offered by a head start agency, shall stop at least ten feet from 57222
the front or rear of the school bus and shall not proceed until 57223
such school bus resumes motion, or until signaled by the school 57224
bus driver to proceed. 57225

It is no defense to a charge under this division that the 57226
school bus involved failed to display or be equipped with an 57227
automatically extended stop warning sign as required by division 57228
(B) of this section. 57229

(B) Every school bus shall be equipped with amber and red 57230
visual signals meeting the requirements of section 4511.771 of the 57231
Revised Code, and an automatically extended stop warning sign of a 57232
type approved by the state board of education, which shall be 57233
actuated by the driver of the bus whenever but only whenever the 57234
bus is stopped or stopping on the roadway for the purpose of 57235
receiving or discharging school children, persons attending 57236
programs offered by community boards of mental health and county 57237
boards of mental retardation and developmental disabilities, or 57238
children attending programs offered by head start agencies. A 57239
school bus driver shall not actuate the visual signals or the stop 57240
warning sign in designated school bus loading areas where the bus 57241
is entirely off the roadway or at school buildings when children 57242
or persons attending programs offered by community boards of 57243

mental health and county boards of mental retardation and 57244
developmental disabilities are loading or unloading at curbside or 57245
at buildings when children attending programs offered by head 57246
start agencies are loading or unloading at curbside. The visual 57247
signals and stop warning sign shall be synchronized or otherwise 57248
operated as required by rule of the board. 57249

(C) Where a highway has been divided into four or more 57250
traffic lanes, a driver of a vehicle, streetcar, or trackless 57251
trolley need not stop for a school bus approaching from the 57252
opposite direction which has stopped for the purpose of receiving 57253
or discharging any school child, persons attending programs 57254
offered by community boards of mental health and county boards of 57255
mental retardation and developmental disabilities, or children 57256
attending programs offered by head start agencies. The driver of 57257
any vehicle, streetcar, or trackless trolley overtaking the school 57258
bus shall comply with division (A) of this section. 57259

(D) School buses operating on divided highways or on highways 57260
with four or more traffic lanes shall receive and discharge all 57261
school children, persons attending programs offered by community 57262
boards of mental health and county boards of mental retardation 57263
and developmental disabilities, and children attending programs 57264
offered by head start agencies on their residence side of the 57265
highway. 57266

(E) No school bus driver shall start the driver's bus until 57267
after any child, person attending programs offered by community 57268
boards of mental health and county boards of mental retardation 57269
and developmental disabilities, or child attending a program 57270
offered by a head start agency who may have alighted therefrom has 57271
reached a place of safety on the child's or person's residence 57272
side of the road. 57273

(F)(1) Whoever violates division (A) of this section may be 57274
fined an amount not to exceed five hundred dollars. A person who 57275

is issued a citation for a violation of division (A) of this 57276
section is not permitted to enter a written plea of guilty and 57277
waive the person's right to contest the citation in a trial but 57278
instead must appear in person in the proper court to answer the 57279
charge. 57280

(2) In addition to and independent of any other penalty 57281
provided by law, the court or mayor may impose upon an offender 57282
who violates this section a class seven suspension of the 57283
offender's driver's license, commercial driver's license, 57284
temporary instruction permit, probationary license, or nonresident 57285
operating privilege from the range specified in division (A)(7) of 57286
section 4510.02 of the Revised Code. When a license is suspended 57287
under this section, the court or mayor shall cause the offender to 57288
deliver the license to the court, and the court or clerk of the 57289
court immediately shall forward the license to the registrar of 57290
motor vehicles, together with notice of the court's action. 57291

(G) As used in this section: 57292

(1) "Head start agency" has the same meaning as in ~~division~~ 57293
~~(A)(1) of~~ section 3301.31 of the Revised Code. 57294

(2) "School bus," as used in relation to children who attend 57295
a program offered by a head start agency, means a bus that is 57296
owned and operated by a head start agency, is equipped with an 57297
automatically extended stop warning sign of a type approved by the 57298
state board of education, is painted the color and displays the 57299
markings described in section 4511.77 of the Revised Code, and is 57300
equipped with amber and red visual signals meeting the 57301
requirements of section 4511.771 of the Revised Code, irrespective 57302
of whether or not the bus has fifteen or more children aboard at 57303
any time. "School bus" does not include a van owned and operated 57304
by a head start agency, irrespective of its color, lights, or 57305
markings. 57306

Section 3.08. That the existing versions of sections 57307
4503.234, 4511.191, and 4511.75 of the Revised Code that are 57308
scheduled to take effect January 1, 2004, are hereby repealed. 57309

Section 3.09. Sections 3.07 and 3.08 of this act take effect 57310
January 1, 2004. 57311

Section 3.10. Section 4723.063 of the Revised Code is hereby 57312
repealed, effective December 31, 2013. 57313

Section 4. Except as otherwise provided, all appropriation 57314
items (AI) in this act are appropriated out of any moneys in the 57315
state treasury to the credit of the designated fund that are not 57316
otherwise appropriated. For all appropriations made in this act, 57317
the amounts in the first column are for fiscal year 2004 and the 57318
amounts in the second column are for fiscal year 2005. 57319

FND AI	AI TITLE	APPROPRIATIONS	57320
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Section 5. ACC ACCOUNTANCY BOARD OF OHIO 57321

General Services Fund Group 57322

4J8	889-601 CPA Education	\$	209,510	\$	209,510	57323
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Assistance

4K9	889-609 Operating Expenses	\$	1,010,583	\$	1,055,578	57324
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TOTAL GSF General Services Fund 57325

Group		\$	1,220,093	\$	1,265,088	57326
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TOTAL ALL BUDGET FUND GROUPS		\$	1,220,093	\$	1,265,088	57327
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Section 6. PAY ACCRUED LEAVE LIABILITY 57329

Accrued Leave Liability Fund Group 57330

806	995-666 Accrued Leave Fund	\$	70,783,792	\$	78,296,200	57331
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807	995-667 Disability Fund	\$	47,269,465	\$	50,098,308	57332
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TOTAL ALF Accrued Leave Liability 57333

Fund Group	\$	118,053,257	\$	128,394,508	57334
Agency Fund Group					57335
808 995-668 State Employee Health	\$	312,724,593	\$	371,450,611	57336
Benefit Fund					
809 995-669 Dependent Care	\$	3,691,169	\$	4,060,286	57337
Spending Account					
810 995-670 Life Insurance	\$	1,925,110	\$	1,992,489	57338
Investment Fund					
811 995-671 Parental Leave Benefit	\$	4,350,302	\$	4,785,332	57339
Fund					
TOTAL AGY Agency Fund Group	\$	322,691,174	\$	382,288,718	57340
TOTAL ALL BUDGET FUND GROUPS	\$	440,744,431	\$	510,683,226	57341

ACCRUED LEAVE LIABILITY FUND 57342

The foregoing appropriation item 995-666, Accrued Leave Fund, 57343
shall be used to make payments from the Accrued Leave Liability 57344
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 57345
If it is determined by the Director of Budget and Management that 57346
additional amounts are necessary, the amounts are appropriated. 57347

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 57348

The foregoing appropriation item 995-667, Disability Fund, 57349
shall be used to make payments from the State Employee Disability 57350
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 57351
Revised Code. If it is determined by the Director of Budget and 57352
Management that additional amounts are necessary, the amounts are 57353
appropriated. 57354

STATE EMPLOYEE HEALTH BENEFIT FUND 57355

The foregoing appropriation item 995-668, State Employee 57356
Health Benefit Fund, shall be used to make payments from the State 57357
Employee Health Benefit Fund (Fund 808), pursuant to section 57358
124.87 of the Revised Code. If it is determined by the Director of 57359
Budget and Management that additional amounts are necessary, the 57360

amounts are appropriated.	57361
DEPENDENT CARE SPENDING ACCOUNT	57362
The foregoing appropriation item 995-669, Dependent Care	57363
Spending Account, shall be used to make payments from the	57364
Dependent Care Spending Account (Fund 809) to employees eligible	57365
for dependent care expenses. If it is determined by the Director	57366
of Budget and Management that additional amounts are necessary,	57367
the amounts are appropriated.	57368
LIFE INSURANCE INVESTMENT FUND	57369
The foregoing appropriation item 995-670, Life Insurance	57370
Investment Fund, shall be used to make payments from the Life	57371
Insurance Investment Fund (Fund 810) for the costs and expenses of	57372
the state's life insurance benefit program pursuant to section	57373
125.212 of the Revised Code. If it is determined by the Director	57374
of Budget and Management that additional amounts are necessary,	57375
the amounts are appropriated.	57376
PARENTAL LEAVE BENEFIT FUND	57377
The foregoing appropriation item 995-671, Parental Leave	57378
Benefit Fund, shall be used to make payments from the Parental	57379
Leave Benefit Fund (Fund 811) to employees eligible for parental	57380
leave benefits pursuant to section 124.137 of the Revised Code. If	57381
it is determined by the Director of Budget and Management that	57382
additional amounts are necessary, the amounts are appropriated.	57383
Section 7. ADJ ADJUTANT GENERAL	57384
General Revenue Fund	57385
GRF 745-401 Ohio Military Reserve \$ 14,889 \$ 15,188	57386
GRF 745-404 Air National Guard \$ 1,915,177 \$ 1,939,762	57387
GRF 745-409 Central Administration \$ 3,976,734 \$ 3,899,590	57388
GRF 745-499 Army National Guard \$ 3,987,516 \$ 4,086,222	57389
GRF 745-502 Ohio National Guard \$ 100,953 \$ 102,973	57390

Unit Fund					
TOTAL GRF General Revenue Fund	\$	9,995,269	\$	10,043,735	57391
General Services Fund Group					57392
534 745-612 Armory Improvements	\$	534,304	\$	534,304	57393
536 745-620 Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	57394
Operations					
537 745-604 ONG Maintenance	\$	219,826	\$	219,826	57395
TOTAL GSF General Services Fund	\$	1,849,100	\$	1,849,100	57396
Group					
Federal Special Revenue Fund Group					57397
3E8 745-628 Air National Guard	\$	11,901,459	\$	12,174,760	57398
Operations and Maintenance Agreement					
3R8 745-603 Counter Drug	\$	25,000	\$	25,000	57399
Operations					
3S0 745-602 Higher Ground Training	\$	10,937	\$	10,937	57400
341 745-615 Air National Guard	\$	2,181,960	\$	2,312,877	57401
Base Security					
342 745-616 Army National Guard	\$	8,109,221	\$	8,686,892	57402
Service Agreement					
TOTAL FED Federal Special Revenue	\$	22,228,577	\$	23,210,466	57403
Fund Group					
State Special Revenue Fund Group					57404
528 745-605 Marksmanship	\$	66,078	\$	66,078	57405
Activities					
TOTAL SSR State Special Revenue	\$	66,078	\$	66,078	57406
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379	57407
Section 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					57409
General Revenue Fund					57410
GRF 100-402 Unemployment	\$	100,000	\$	100,000	57411

	Compensation			
GRF 100-405	Agency Audit Expenses	\$ 350,000	\$ 350,000	57412
GRF 100-406	County & University	\$ 400,000	\$ 400,000	57413
	Human Resources			
	Services			
GRF 100-410	Veterans' Records	\$ 19,729	\$ 47,123	57414
	Conversion			
GRF 100-417	MARCS	\$ 900,000	\$ 900,000	57415
GRF 100-418	Digital Government	\$ 1,500,000	\$ 1,500,000	57416
GRF 100-419	Network Security	\$ 1,000,000	\$ 1,000,000	57417
GRF 100-421	OAKS Project	\$ 450,000	\$ 450,000	57418
	Implementation			
GRF 100-433	State of Ohio Computer	\$ 4,936,073	\$ 4,991,719	57419
	Center			
GRF 100-439	Equal Opportunity	\$ 500,000	\$ 500,000	57420
	Certification Programs			
GRF 100-447	OBA - Building Rent	\$ 105,675,000	\$ 117,027,700	57421
	Payments			
GRF 100-448	OBA - Building	\$ 25,445,550	\$ 26,003,250	57422
	Operating Payments			
GRF 100-449	DAS - Building	\$ 4,264,675	\$ 4,460,417	57423
	Operating Payments			
GRF 100-451	Minority Affairs	\$ 50,000	\$ 50,000	57424
GRF 100-734	Major Maintenance -	\$ 45,000	\$ 45,000	57425
	State Bldgs			
GRF 102-321	Construction	\$ 1,250,000	\$ 1,250,000	57426
	Compliance			
GRF 130-321	State Agency Support	\$ 1,500,000	\$ 1,500,000	57427
	Services			
TOTAL GRF	General Revenue Fund	\$ 148,386,027	\$ 160,575,209	57428
	General Services Fund Group			
112 100-616	Director's Office	\$ 5,503,547	\$ 5,503,547	57430
115 100-632	Central Service Agency	\$ 431,176	\$ 448,574	57431

117	100-644	General Services	\$	7,622,861	\$	8,653,304	57432
		Division - Operating					
122	100-637	Fleet Management	\$	1,669,589	\$	1,652,849	57433
125	100-622	Human Resources	\$	21,489,800	\$	21,764,800	57434
		Division - Operating					
127	100-627	Vehicle Liability	\$	3,363,894	\$	3,344,644	57435
		Insurance					
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	57436
130	100-606	Risk Management	\$	217,904	\$	223,904	57437
		Reserve					
131	100-639	State Architect's	\$	6,510,117	\$	6,473,867	57438
		Office					
132	100-631	DAS Building	\$	10,921,019	\$	10,721,430	57439
		Management					
188	100-649	Equal Opportunity	\$	1,082,353	\$	1,103,697	57440
		Division - Operating					
201	100-653	General Services	\$	1,533,000	\$	1,553,000	57441
		Resale Merchandise					
210	100-612	State Printing	\$	6,160,200	\$	6,674,421	57442
4P3	100-603	Departmental MIS	\$	6,077,535	\$	6,233,638	57443
		Services					
427	100-602	Investment Recovery	\$	4,023,473	\$	3,953,216	57444
5C2	100-605	MARCS Administration	\$	6,632,527	\$	9,268,178	57445
5C3	100-608	Skilled Trades	\$	1,840,327	\$	1,905,655	57446
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	57447
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	57448
		Development					
5V6	100-619	Employee Educational	\$	809,071	\$	811,129	57449
		Development					
TOTAL GSF General Services Fund							57450
Group			\$	103,999,345	\$	108,400,805	57451
Intragovernmental Service Fund Group							57452
133	100-607	Information Technology	\$	100,987,526	\$	102,272,838	57453

Fund				
4N6 100-617	Major IT Purchases	\$ 15,452,006	\$ 10,617,166	57454
TOTAL ISF Intragovernmental				57455
Service Fund Group				\$ 116,439,532 \$ 112,890,004 57456
Agency Fund Group				57457
113 100-628	Unemployment	\$ 4,200,000	\$ 4,200,000	57458
Compensation Pass				
Through				
124 100-629	Payroll Deductions	\$ 1,971,000,000	\$ 2,050,000,000	57459
TOTAL AGY Agency Fund Group				\$ 1,975,200,000 \$ 2,054,200,000 57460
Holding Account Redistribution Fund Group				57461
R08 100-646	General Services	\$ 20,000	\$ 20,000	57462
Refunds				
TOTAL 090 Holding Account				57463
Redistribution Fund Group				\$ 20,000 \$ 20,000 57464
TOTAL ALL BUDGET FUND GROUPS				\$ 2,344,044,904 \$ 2,436,086,018 57465

Section 8.01. AGENCY AUDIT EXPENSES 57467

The foregoing appropriation item 100-405, Agency Audit 57468
 Expenses, shall be used for auditing expenses designated in 57469
 division (A)(1) of section 117.13 of the Revised Code for those 57470
 state agencies audited on a biennial basis. 57471

Section 8.02. OHIO BUILDING AUTHORITY 57472

The foregoing appropriation item 100-447, OBA - Building Rent 57473
 Payments, shall be used to meet all payments at the times they are 57474
 required to be made during the period from July 1, 2003, to June 57475
 30, 2005, by the Department of Administrative Services to the Ohio 57476
 Building Authority pursuant to leases and agreements under Chapter 57477
 152. of the Revised Code, but limited to the aggregate amount of 57478
 \$222,702,700. These appropriations are the source of funds pledged 57479
 for bond service charges on obligations issued pursuant to Chapter 57480

152. of the Revised Code. 57481

The foregoing appropriation item 100-448, OBA - Building 57482
Operating Payments, shall be used to meet all payments at the 57483
times that they are required to be made during the period from 57484
July 1, 2003, to June 30, 2005, by the Department of 57485
Administrative Services to the Ohio Building Authority pursuant to 57486
leases and agreements under Chapter 152. of the Revised Code, but 57487
limited to the aggregate amount of \$51,448,800. 57488

The payments to the Ohio Building Authority are for the 57489
purpose of paying the expenses of agencies that occupy space in 57490
the various state facilities. The Department of Administrative 57491
Services may enter into leases and agreements with the Ohio 57492
Building Authority providing for the payment of these expenses. 57493
The Ohio Building Authority shall report to the Department of 57494
Administrative Services and the Office of Budget and Management 57495
not later than five months after the start of a fiscal year the 57496
actual expenses incurred by the Ohio Building Authority in 57497
operating the facilities and any balances remaining from payments 57498
and rentals received in the prior fiscal year. The Department of 57499
Administrative Services shall reduce subsequent payments by the 57500
amount of the balance reported to it by the Ohio Building 57501
Authority. 57502

Section 8.03. DAS - BUILDING OPERATING PAYMENTS 57503

The foregoing appropriation item 100-449, DAS - Building 57504
Operating Payments, shall be used to pay the rent expenses of 57505
veterans organizations pursuant to section 123.024 of the Revised 57506
Code in fiscal years 2004 and 2005. 57507

The foregoing appropriation item, 100-449, DAS - Building 57508
Operating Payments, may be used to provide funding for the cost of 57509
property appraisals or building studies that the Department of 57510
Administrative Services may be required to obtain for property 57511

that is being sold by the state or property under consideration to 57512
be renovated or purchased by the state. 57513

Notwithstanding section 125.28 of the Revised Code, the 57514
remaining portion of the appropriation may be used to pay the 57515
operating expenses of state facilities maintained by the 57516
Department of Administrative Services that are not billed to 57517
building tenants. These expenses may include, but are not limited 57518
to, the costs for vacant space and space undergoing renovation, 57519
and the rent expenses of tenants that are relocated due to 57520
building renovations. These payments shall be processed by the 57521
Department of Administrative Services through intrastate transfer 57522
vouchers and placed in the Building Management Fund (Fund 132). 57523

Section 8.04. CENTRAL SERVICE AGENCY FUND 57524

The Director of Budget and Management may transfer up to 57525
\$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 57526
2005 from the Occupational Licensing and Regulatory Fund (Fund 57527
4K9) to the Central Service Agency Fund (Fund 115). The Director 57528
of Budget and Management may transfer up to \$40,700 in fiscal year 57529
2004 and up to \$41,200 in fiscal year 2005 from the State Medical 57530
Board Operating Fund (Fund 5C6) to the Central Service Agency Fund 57531
(Fund 115). The appropriation item 100-632, Central Service 57532
Agency, shall be used to purchase the necessary equipment, 57533
products, and services to maintain a local area network for the 57534
professional licensing boards, and to support their licensing 57535
applications in fiscal years 2004 and 2005. The amount of the cash 57536
transfer is appropriated to appropriation item 100-632, Central 57537
Service Agency. 57538

Section 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES 57539

With approval of the Director of Budget and Management, the 57540
Department of Administrative Services may seek reimbursement from 57541

state agencies for the actual costs and expenses the department 57542
incurs in the collective bargaining arbitration process. The 57543
reimbursements shall be processed through intrastate transfer 57544
vouchers and placed in the Collective Bargaining Fund (Fund 128). 57545

Section 8.06. EQUAL OPPORTUNITY PROGRAM 57546

The Department of Administrative Services, with the approval 57547
of the Director of Budget and Management, shall establish charges 57548
for recovering the costs of administering the activities supported 57549
by the State EEO Fund (Fund 188). These charges shall be deposited 57550
to the credit of the State EEO Fund (Fund 188) upon payment made 57551
by state agencies, state-supported or state-assisted institutions 57552
of higher education, and tax-supported agencies, municipal 57553
corporations, and other political subdivisions of the state, for 57554
services rendered. 57555

Section 8.07. MERCHANDISE FOR RESALE 57556

The foregoing appropriation item 100-653, General Services 57557
Resale Merchandise, shall be used to account for merchandise for 57558
resale, which is administered by the General Services Division. 57559
Deposits to the fund may comprise the cost of merchandise for 57560
resale and shipping fees. 57561

Section 8.08. DEPARTMENTAL MIS 57562

The foregoing appropriation item 100-603, Departmental MIS 57563
Services, may be used to pay operating expenses of management 57564
information systems activities in the Department of Administrative 57565
Services. The Department of Administrative Services shall 57566
establish charges for recovering the costs of management 57567
information systems activities. These charges shall be deposited 57568
to the credit of the Departmental MIS Services Fund (Fund 4P3). 57569

Notwithstanding any other language to the contrary, the 57570

Director of Budget and Management may transfer up to \$1,000,000 of 57571
fiscal year 2004 appropriations and up to \$1,000,000 of fiscal 57572
year 2005 appropriations from appropriation item 100-603, 57573
Departmental MIS Services, to any Department of Administrative 57574
Services non-General Revenue Fund appropriation item. The 57575
appropriations transferred shall be used to make payments for 57576
management information systems services. 57577

Section 8.09. INVESTMENT RECOVERY FUND 57578

Notwithstanding division (B) of section 125.14 of the Revised 57579
Code, cash balances in the Investment Recovery Fund (Fund 427) may 57580
be used to support the operating expenses of the Federal Surplus 57581
Operating Program created in sections 125.84 to 125.90 of the 57582
Revised Code. 57583

Notwithstanding division (B) of section 125.14 of the Revised 57584
Code, cash balances in the Investment Recovery Fund may be used to 57585
support the operating expenses of the State Property Inventory and 57586
Fixed Assets Management System Program. 57587

Of the foregoing appropriation item 100-602, Investment 57588
Recovery, up to \$1,958,155 in fiscal year 2004 and up to 57589
\$2,049,162 in fiscal year 2005 shall be used to pay the operating 57590
expenses of the State Surplus Property Program, the Surplus 57591
Federal Property Program, and the State Property Inventory and 57592
Fixed Assets Management System Program pursuant to Chapter 125. of 57593
the Revised Code and this section. If additional appropriations 57594
are necessary for the operations of these programs, the Director 57595
of Administrative Services shall seek increased appropriations 57596
from the Controlling Board under section 131.35 of the Revised 57597
Code. 57598

Of the foregoing appropriation item 100-602, Investment 57599
Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal 57600
year 2005 shall be used to transfer proceeds from the sale of 57601

surplus property from the Investment Recovery Fund to non-General 57602
Revenue Funds pursuant to division (A)(2) of section 125.14 of the 57603
Revised Code. If it is determined by the Director of 57604
Administrative Services that additional appropriations are 57605
necessary for the transfer of such sale proceeds, the Director of 57606
Administrative Services may request the Director of Budget and 57607
Management to increase the amounts. Such amounts are hereby 57608
appropriated. 57609

Notwithstanding division (B) of section 125.14 of the Revised 57610
Code, the Director of Budget and Management, at the request of the 57611
Director of Administrative Services, shall transfer up to 57612
\$2,811,197 of the amounts held for transfer to the General Revenue 57613
Fund from the Investment Recovery Fund to the General Services 57614
Fund (Fund 117) during the biennium beginning July 1, 2003, and 57615
ending June 30, 2005. The cash transferred to the General Services 57616
Fund shall be used to pay the operating expenses of the 57617
Competitive Sealed Proposal Program, to provide operating cash for 57618
the General Services Fund, and to provide operating cash for the 57619
newly created rate pools for Real Estate Leasing and Interior 57620
Design Services. 57621

Section 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 57622

Notwithstanding division (B)(3) of section 4505.09 of the 57623
Revised Code, the Director of Budget and Management, at the 57624
request of the Director of Administrative Services, may transfer 57625
up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 57626
2005 from the Automated Title Processing System (Fund 849) to the 57627
Multi-Agency Radio Communications Systems Administration Fund 57628
(Fund 5C2). The cash transferred to the Multi-Agency Radio 57629
Communications Systems Administration Fund shall be used for the 57630
development of the MARCS system. 57631

Effective with the implementation of the Multi-Agency Radio 57632

Communications System, the Director of Administrative Services 57633
shall collect user fees from participants in the system. The 57634
Director of Administrative Services, with the advice of the 57635
Multi-Agency Radio Communications System Steering Committee and 57636
the Director of Budget and Management, shall determine the amount 57637
of the fees and the manner by which the fees shall be collected. 57638
Such user charges shall comply with the applicable cost principles 57639
issued by the federal Office of Management and Budget. All moneys 57640
from user charges and fees shall be deposited in the state 57641
treasury to the credit of the Multi-Agency Radio Communications 57642
System Administration Fund (Fund 5C2). All interest income derived 57643
from the investment of the fund shall accrue to the fund. 57644

Section 8.10a. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 57645
ADMINISTRATION FUND (FUND 5C2) TRANSFER TO THE GRF 57646

On July 31, 2003, or as soon as possible thereafter, the 57647
Director of Budget and Management shall transfer \$1,000,000 cash 57648
from the Multi-Agency Radio Communications System Administration 57649
Fund (Fund 5C2) to the General Revenue Fund. 57650

Section 8.11. WORKFORCE DEVELOPMENT FUND 57651

There is hereby established in the state treasury the 57652
Workforce Development Fund (Fund 5D7). The foregoing appropriation 57653
item 100-621, Workforce Development, shall be used to make 57654
payments from the fund. The fund shall be under the supervision of 57655
the Department of Administrative Services, which may adopt rules 57656
with regard to administration of the fund. The fund shall be used 57657
to pay the costs of the Workforce Development Program, if any, as 57658
previously established by Article 37 of the contract between the 57659
State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, 57660
and as modified by any successor labor contract between the State 57661
of Ohio and OCSEA/AFSCME. The program shall be administered in 57662

accordance with the contract. Revenues shall accrue to the fund as 57663
specified in the contract. The fund may be used to pay direct and 57664
indirect costs of the program that are attributable to staff, 57665
consultants, and service providers. All income derived from the 57666
investment of the fund shall accrue to the fund. 57667

If it is determined by the Director of Administrative 57668
Services that additional appropriation amounts are necessary, the 57669
Director of Administrative Services may request that the Director 57670
of Budget and Management increase such amounts. Such amounts are 57671
hereby appropriated. 57672

Section 8.12. PROFESSIONAL DEVELOPMENT FUND 57673

The foregoing appropriation item 100-610, Professional 57674
Development, shall be used to make payments from the Professional 57675
Development Fund (Fund 5L7) pursuant to section 124.182 of the 57676
Revised Code. 57677

Section 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT 57678

There is hereby established in the state treasury the 57679
Employee Educational Development Fund (Fund 5V6). The foregoing 57680
appropriation item 100-619, Employee Educational Development, 57681
shall be used to make payments from the fund. The fund shall be 57682
used to pay the costs of the administration of educational 57683
programs per existing collective bargaining agreements with 57684
District 1199, the Health Care and Social Service Union; State 57685
Council of Professional Educators; Ohio Education Association; 57686
National Education Association; the Fraternal Order of Police Ohio 57687
Labor Council, Unit 2; and the Ohio State Troopers Association, 57688
Units 1 and 15. The fund shall be under the supervision of the 57689
Department of Administrative Services, which may adopt rules with 57690
regard to administration of the fund. The fund shall be 57691
administered in accordance with the applicable sections of the 57692

collective bargaining agreements between the State and the 57693
aforementioned unions. The Department of Administrative Services, 57694
with the approval of the Director of Budget and Management, shall 57695
establish charges for recovering the costs of administering the 57696
educational programs. Receipts for these charges shall be 57697
deposited into the Employee Educational Development Fund. All 57698
income derived from the investment of the funds shall accrue to 57699
the fund. 57700

If it is determined by the Director of Administrative 57701
Services that additional appropriation amounts are necessary, the 57702
Director of Administrative Services may request that the Director 57703
of Budget and Management increase such amounts. Such amounts are 57704
hereby appropriated with the approval of the Director of Budget 57705
and Management. 57706

Upon the request of the Director of Administrative Services, 57707
the Director of Budget and Management shall transfer any cash 57708
balances attributable to educational programs per existing 57709
collective bargaining agreements with District 1199, the Health 57710
Care and Social Service Union; State Council of Professional 57711
Educators; Ohio Education Association; National Education 57712
Association; the Fraternal Order of Police Ohio Labor Council, 57713
Unit 2; and the Ohio State Troopers Association, Units 1 and 15 57714
from the Human Resources Services Fund (Fund 125) to the Employee 57715
Educational Development Fund (Fund 5V6). 57716

Section 8.14. MAJOR IT PURCHASES 57717

The Director of Administrative Services shall compute the 57718
amount of revenue attributable to the amortization of all 57719
equipment purchases and capitalized systems from appropriation 57720
item 100-607, Information Technology Fund; appropriation item 57721
100-617, Major IT Purchases; and appropriation item CAP-837, Major 57722
IT Purchases, which is recovered by the Department of 57723

Administrative Services as part of the rates charged by the 57724
Information Technology Fund (Fund 133) created in section 125.15 57725
of the Revised Code. The Director of Budget and Management may 57726
transfer cash in an amount not to exceed the amount of 57727
amortization computed from the Information Technology Fund (Fund 57728
133) to the Major IT Purchases Fund (Fund 4N6). 57729

Section 8.15. INFORMATION TECHNOLOGY ASSESSMENT 57730

The Director of Administrative Services, with the approval of 57731
the Director of Budget and Management, may establish an 57732
information technology assessment for the purpose of recovering 57733
the cost of selected infrastructure and statewide programs. Such 57734
assessment shall comply with applicable cost principles issued by 57735
the federal Office of Management and Budget. The information 57736
technology assessment shall be charged to all organized bodies, 57737
offices, or agencies established by the laws of the state for the 57738
exercise of any function of state government except for the 57739
General Assembly, any legislative agency, the Supreme Court, the 57740
other courts of record in Ohio, or any judicial agency, the 57741
Adjutant General, the Bureau of Workers' Compensation, and 57742
institutions administered by a board of trustees. Any state-entity 57743
exempted by this section may utilize the infrastructure or 57744
statewide program by participating in the information technology 57745
assessment. All charges for the information technology assessment 57746
shall be deposited to the credit of the Information Technology 57747
Fund (Fund 133) created in section 125.15 of the Revised Code. 57748

Section 8.16. UNEMPLOYMENT COMPENSATION FUND 57749

The foregoing appropriation item 100-628, Unemployment 57750
Compensation Pass Through, shall be used to make payments from the 57751
Unemployment Compensation Fund (Fund 113), pursuant to section 57752
4141.241 of the Revised Code. If it is determined that additional 57753

amounts are necessary, such amounts are hereby appropriated. 57754

Section 8.17. PAYROLL WITHHOLDING FUND 57755

The foregoing appropriation item 100-629, Payroll Deductions, 57756
shall be used to make payments from the Payroll Withholding Fund 57757
(Fund 124). If it is determined by the Director of Budget and 57758
Management that additional appropriation amounts are necessary, 57759
such amounts are hereby appropriated. 57760

Section 8.18. GENERAL SERVICES REFUNDS 57761

The foregoing appropriation item 100-646, General Services 57762
Refunds, shall be used to hold bid guarantee and building plans 57763
and specifications deposits until they are refunded. The Director 57764
of Administrative Services may request that the Director of Budget 57765
and Management transfer cash received for the costs of providing 57766
the building plans and specifications to contractors from the 57767
General Services Refunds Fund to the State Architect's Office Fund 57768
(Fund 131). Prior to the transfer of cash, the Director of 57769
Administrative Services shall certify that such amounts are in 57770
excess of amounts required for refunding deposits and are directly 57771
related to costs of producing building plans and specifications. 57772
If it is determined that additional appropriations are necessary, 57773
such amounts are hereby appropriated. 57774

Section 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT 57775
SERVICE PAYMENTS 57776

The Director of Administrative Services, in consultation with 57777
the Multi-Agency Radio Communication System (MARCS) Steering 57778
Committee and the Director of Budget and Management, shall 57779
determine the share of debt service payments attributable to 57780
spending for MARCS components that are not specific to any one 57781
agency and that shall be charged to agencies supported by the 57782

motor fuel tax. Such share of debt service payments shall be 57783
calculated for MARCS capital disbursements made beginning July 1, 57784
1997. Within thirty days of any payment made from appropriation 57785
item 100-447, OBA - Building Rent Payments, the Director of 57786
Administrative Services shall certify to the Director of Budget 57787
and Management the amount of this share. The Director of Budget 57788
and Management shall transfer such amounts to the General Revenue 57789
Fund from the State Highway Safety Fund (Fund 036) established in 57790
section 4501.06 of the Revised Code. 57791

The Director of Administrative Services shall consider 57792
renting or leasing existing tower sites at reasonable or current 57793
market rates, so long as these existing sites are equipped with 57794
the technical capabilities to support the MARCS project. 57795

Section 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 57796

Whenever the Director of Administrative Services declares a 57797
"public exigency," as provided in division (C) of section 123.15 57798
of the Revised Code, the Director shall also notify the members of 57799
the Controlling Board. 57800

Section 8.21. GENERAL SERVICE CHARGES 57801

The Department of Administrative Services, with the approval 57802
of the Director of Budget and Management, shall establish charges 57803
for recovering the costs of administering the programs in the 57804
General Services Fund (Fund 117) and the State Printing Fund (Fund 57805
210). 57806

Section 8.22. ASSESSMENTS ON STATE AGENCIES, BOARDS, AND 57807
COMMISSIONS 57808

For fiscal year 2004 and fiscal year 2005, the Director of 57809
Administrative Services shall not increase rates, charges, or fees 57810
for centralized services provided by the Department of 57811

Administrative Services and specified in Payroll Letter 824, 57812
 effective July 17, 2002. This provision shall not apply to payroll 57813
 deductions for employee health, vision, and dental benefits, 57814
 employers' share of pension contributions, or amounts deducted for 57815
 accrued leave or disability leave. Nor shall this provision apply 57816
 to charges or deductions for programs operated by the Department 57817
 of Administrative Services in accordance with any collective 57818
 bargaining agreement. 57819

The Director of Administrative Services shall not increase 57820
 rates or charges assessed to state agencies, boards, and 57821
 commissions for other centralized services provided by the General 57822
 Services Division and in effect as of June 30, 2003. However, the 57823
 rate charged for mail services may be adjusted to account for 57824
 increases in federal postage rates. 57825

Section 9. AAM COMMISSION ON AFRICAN AMERICAN MALES 57826

General Revenue Fund 57827

GRF 036-100	Personal Services	\$	212,492	\$	218,610	57828
GRF 036-200	Maintenance	\$	50,180	\$	50,180	57829
GRF 036-300	Equipment	\$	4,000	\$	4,000	57830
GRF 036-501	CAAM Awards and	\$	8,143	\$	765	57831

Scholarships

GRF 036-502	Community Projects	\$	25,185	\$	26,445	57832
TOTAL GRF	General Revenue Fund	\$	300,000	\$	300,000	57833

State Special Revenue Fund Group 57834

4H3 036-601	Commission on African	\$	10,000	\$	10,000	57835
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American Males -

Gifts/Grants

TOTAL SSR	State Special Revenue	\$	10,000	\$	10,000	57836
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Fund Group

TOTAL ALL BUDGET FUND GROUPS		\$	310,000	\$	310,000	57837
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COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW 57838

Annually, not later than the thirty-first day of December, 57839
the Commission on African American Males shall internally prepare 57840
and submit to the chairperson and ranking minority member of the 57841
Human Services Subcommittee of the Finance and Appropriations 57842
Committee of the House of Representatives a report that 57843
demonstrates the progress that has been made toward meeting the 57844
Commission's mission statement. 57845

Section 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 57846

General Revenue Fund 57847
GRF 029-321 Operating Expenses \$ 363,769 \$ 379,769 57848
TOTAL GRF General Revenue Fund \$ 363,769 \$ 379,769 57849
TOTAL ALL BUDGET FUND GROUPS \$ 363,769 \$ 379,769 57850

OPERATING 57851

The Chief Administrative Officer of the House of 57852
Representatives and the Clerk of the Senate shall determine, by 57853
mutual agreement, which of them shall act as fiscal agent for the 57854
Joint Committee on Agency Rule Review. 57855

Section 11. AGE DEPARTMENT OF AGING 57856

General Revenue Fund 57857
GRF 490-321 Operating Expenses \$ 1,908,867 \$ 1,908,867 57858
GRF 490-403 PASSPORT \$ 74,808,877 \$ 80,946,032 57859
GRF 490-405 Golden Buckeye Card \$ 267,628 \$ 267,628 57860
GRF 490-406 Senior Olympics \$ 16,636 \$ 16,636 57861
GRF 490-408 STARS \$ 2,125,223 \$ 2,167,728 57862
GRF 490-409 Ohio Community Service \$ 228,048 \$ 228,048 57863
Council Operations
GRF 490-410 Long-Term Care \$ 729,685 \$ 729,685 57864
Ombudsman
GRF 490-411 Senior Community \$ 10,971,431 \$ 10,971,431 57865
Services

GRF 490-412	Residential State Supplement	\$	9,960,356	\$	9,960,356	57866
GRF 490-414	Alzheimers Respite	\$	4,346,689	\$	4,346,689	57867
GRF 490-416	Transportation for Elderly	\$	138,369	\$	138,369	57868
GRF 490-506	Senior Volunteers	\$	375,471	\$	375,471	57869
TOTAL GRF	General Revenue Fund	\$	105,877,280	\$	112,056,940	57870
General Services Fund Group						57871
480 490-606	Senior Citizens Services Special Events	\$	372,677	\$	372,677	57872
5T4 490-615	Aging Network Support	\$	252,830	\$	252,830	57873
TOTAL GSF	General Services Fund Group	\$	625,507	\$	625,507	57875
Federal Special Revenue Fund Group						57876
3C4 490-607	PASSPORT	\$	140,563,071	\$	143,208,159	57877
3M3 490-611	Federal Aging Nutrition	\$	25,541,095	\$	26,818,149	57878
3M4 490-612	Federal Supportive Services	\$	26,305,294	\$	27,094,453	57879
3R7 490-617	Ohio Community Service Council Programs	\$	8,951,150	\$	8,905,150	57880
322 490-618	Older Americans Support Services	\$	12,904,949	\$	13,298,626	57881
TOTAL FED	Federal Special Revenue Fund Group	\$	214,265,559	\$	219,324,537	57883
State Special Revenue Fund Group						57884
4C4 490-609	Regional Long-Term Care Ombudsman Program	\$	451,190	\$	451,190	57885
4J4 490-610	PASSPORT/Residential State Supplement	\$	33,268,052	\$	33,263,984	57886
4U9 490-602	PASSPORT Fund	\$	5,000,000	\$	5,000,000	57887

5W1 490-616 Resident Services	\$	250,000	\$	250,000	57888
Coordinator Program					
624 490-604 OCSC Community Support	\$	2,500	\$	2,500	57889
TOTAL SSR State Special Revenue					57890
Fund Group	\$	38,971,742	\$	38,967,674	57891
TOTAL ALL BUDGET FUND GROUPS	\$	359,740,088	\$	370,974,658	57892

Section 11.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY 57894

ADMISSION 57895

Pursuant to sections 5101.751 and 5101.754 of the Revised 57896
Code and an interagency agreement, the Department of Job and 57897
Family Services shall designate the Department of Aging to perform 57898
assessments under sections 5101.75 and 5111.204 of the Revised 57899
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 57900
Department of Aging may use not more than \$2,511,309 in fiscal 57901
year 2004 and \$2,574,092 in fiscal year 2005 to perform the 57902
assessments for persons not eligible for Medicaid in accordance 57903
with the department's interagency agreement with the Department of 57904
Job and Family Services and to assist individuals in planning for 57905
their long-term health care needs. 57906

Section 11.02. PASSPORT 57907

Appropriation item 490-403, PASSPORT, and the amounts set 57908
aside for the PASSPORT Waiver Program in appropriation item 57909
490-610, PASSPORT/Residential State Supplement, may be used to 57910
assess clients regardless of Medicaid eligibility. 57911

The Director of Aging shall adopt rules under section 111.15 57912
of the Revised Code governing the nonwaiver funded PASSPORT 57913
program, including client eligibility. 57914

The Department of Aging shall administer the Medicaid 57915
waiver-funded PASSPORT Home Care Program as delegated by the 57916
Department of Job and Family Services in an interagency agreement. 57917

The foregoing appropriation item 490-403, PASSPORT, and the 57918
amounts set aside for the PASSPORT Waiver Program in appropriation 57919
item 490-610, PASSPORT/Residential State Supplement, shall be used 57920
to provide the required state match for federal Medicaid funds 57921
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 57922
Appropriation item 490-403, PASSPORT, and the amounts set aside 57923
for the PASSPORT Waiver Program in appropriation item 490-610, 57924
PASSPORT/Residential State Supplement, may also be used to support 57925
the Department of Aging's administrative costs associated with 57926
operating the PASSPORT program. 57927

The foregoing appropriation item 490-607, PASSPORT, shall be 57928
used to provide the federal matching share for all PASSPORT 57929
program costs determined by the Department of Job and Family 57930
Services to be eligible for Medicaid reimbursement. 57931

SENIOR COMMUNITY SERVICES 57932

The foregoing appropriation item 490-411, Senior Community 57933
Services, shall be used for services designated by the Department 57934
of Aging, including, but not limited to, home-delivered and 57935
congregate meals, transportation services, personal care services, 57936
respite services, adult day services, home repair, care 57937
coordination, and decision support systems. Service priority shall 57938
be given to low income, frail, and cognitively impaired persons 60 57939
years of age and over. The department shall promote cost sharing 57940
by service recipients for those services funded with block grant 57941
funds, including, where possible, sliding-fee scale payment 57942
systems based on the income of service recipients. 57943

ALZHEIMERS RESPITE 57944

The foregoing appropriation item 490-414, Alzheimers Respite, 57945
shall be used to fund only Alzheimer's disease services under 57946
section 173.04 of the Revised Code. 57947

TRANSPORTATION FOR ELDERLY 57948

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;

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Wexner Heritage Village/Columbus;

(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;

(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;

(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in fiscal year 2005 to the Jewish Community Center/Youngstown;

(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in fiscal year 2005 to the Jewish Community Center/Canton;

(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center/Sylvania.

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

RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and

for determining the amount per month the eligible resident will	57978
receive shall be as follows:	57979
(A) \$900 for a residential care facility, as defined in	57980
section 3721.01 of the Revised Code;	57981
(B) \$900 for an adult group home, as defined in Chapter 3722.	57982
of the Revised Code;	57983
(C) \$800 for an adult foster home, as defined in Chapter 173.	57984
of the Revised Code;	57985
(D) \$800 for an adult family home, as defined in Chapter	57986
3722. of the Revised Code;	57987
(E) \$800 for an adult community alternative home, as defined	57988
in Chapter 3724. of the Revised Code;	57989
(F) \$800 for an adult residential facility, as defined in	57990
Chapter 5119. of the Revised Code;	57991
(G) \$600 for adult community mental health housing services,	57992
as defined in division (B)(5) of section 173.35 of the Revised	57993
Code.	57994
The Departments of Aging and Job and Family Services shall	57995
reflect these amounts in any applicable rules the departments	57996
adopt under section 173.35 of the Revised Code.	57997
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	57998
The Department of Aging may transfer cash by intrastate	57999
transfer vouchers from the foregoing appropriation items 490-412,	58000
Residential State Supplement, and 490-610, PASSPORT/Residential	58001
State Supplement, to the Department of Job and Family Services'	58002
Fund 4J5, Home and Community-Based Services for the Aged Fund. The	58003
funds shall be used to make benefit payments to Residential State	58004
Supplement recipients.	58005
LONG-TERM CARE OMBUDSMAN	58006

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.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS 58011

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 58015

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 58021
58022

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 58031

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				58036
General Revenue Fund				58037
GRF 700-321	Operating Expenses	\$ 2,737,665	\$ 2,771,628	58038
GRF 700-401	Animal Disease Control	\$ 3,621,815	\$ 3,621,815	58039
GRF 700-402	Amusement Ride Safety	\$ 278,767	\$ 275,943	58040
GRF 700-403	Dairy Division	\$ 1,494,597	\$ 1,494,153	58041
GRF 700-404	Ohio Proud	\$ 197,727	\$ 197,229	58042
GRF 700-405	Animal Damage Control	\$ 44,954	\$ 44,954	58043
GRF 700-406	Consumer Analytical	\$ 819,281	\$ 872,241	58044
Lab				
GRF 700-407	Food Safety	\$ 999,042	\$ 999,042	58045
GRF 700-409	Farmland Preservation	\$ 256,993	\$ 256,993	58046
GRF 700-410	Plant Industry	\$ 1,109,867	\$ 1,107,677	58047
GRF 700-411	International Trade	\$ 521,049	\$ 517,524	58048
and Market Development				
GRF 700-412	Weights and Measures	\$ 914,137	\$ 909,120	58049
GRF 700-413	Gypsy Moth Prevention	\$ 546,118	\$ 576,299	58050
GRF 700-414	Concentrated Animal	\$ 16,521	\$ 16,086	58051
Feeding Facilities				
Advisory Committee				
GRF 700-415	Poultry Inspection	\$ 270,645	\$ 267,743	58052
GRF 700-418	Livestock Regulation	\$ 1,306,911	\$ 1,306,911	58053
Program				
GRF 700-424	Livestock Testing and	\$ 123,347	\$ 123,347	58054
Inspections				
GRF 700-499	Meat Inspection	\$ 4,451,611	\$ 4,496,889	58055
Program - State Share				
GRF 700-501	County Agricultural	\$ 381,091	\$ 381,091	58056
Societies				
TOTAL GRF	General Revenue Fund	\$ 20,092,138	\$ 20,236,685	58057
Federal Special Revenue Fund Group				58058

3J4	700-607	Indirect Cost	\$	938,785	\$	949,877	58059
3R2	700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000	58060
326	700-618	Meat Inspection	\$	4,876,904	\$	4,951,291	58061
		Service - Federal					
		Share					
336	700-617	Ohio Farm Loan	\$	181,774	\$	181,774	58062
		Revolving Fund					
382	700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000	58063
TOTAL FED		Federal Special Revenue					58064
Fund Group			\$	9,797,463	\$	10,007,942	58065
State Special Revenue Fund Group							58066
4C9	700-605	Feed, Fertilizer, and	\$	986,765	\$	1,008,541	58067
		Lime Inspection					
4D2	700-609	Auction Education	\$	30,476	\$	30,476	58068
4E4	700-606	Utility Radiological	\$	73,059	\$	73,059	58069
		Safety					
4P7	700-610	Food Safety Inspection	\$	575,797	\$	582,711	58070
4R0	700-636	Ohio Proud Marketing	\$	40,300	\$	38,300	58071
4R2	700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183	58072
4T6	700-611	Poultry and Meat	\$	46,162	\$	47,294	58073
		Inspection					
4T7	700-613	International Trade	\$	41,238	\$	42,000	58074
		and Market Development					
		Rotary					
4V5	700-615	Animal Industry Lab	\$	711,944	\$	711,944	58075
		Fees					
494	700-612	Agricultural Commodity	\$	170,077	\$	170,220	58076
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099	58077
497	700-627	Commodity Handlers	\$	664,118	\$	664,118	58078
		Regulatory Program					
498	700-628	Commodity Indemnity	\$	250,000	\$	250,000	58079
		Fund					

5B8	700-629	Auctioneers	\$	291,672	\$	365,390	58080
5H2	700-608	Metrology Lab	\$	105,879	\$	108,849	58081
5L8	700-604	Livestock Management	\$	250,000	\$	250,000	58082
		Program					
578	700-620	Ride Inspection Fees	\$	497,000	\$	497,000	58083
579	700-630	Scale Certification	\$	168,785	\$	171,677	58084
652	700-634	Laboratory Services	\$	1,043,444	\$	1,074,447	58085
669	700-635	Pesticide Program	\$	2,243,232	\$	2,243,232	58086
TOTAL SSR State Special Revenue							58087
Fund Group			\$	10,418,650	\$	10,584,540	58088
Clean Ohio Fund Group							58089
057	700-632	Clean Ohio	\$	149,000	\$	149,000	58090
		Agricultural Easement					
TOTAL CLR Clean Ohio Fund Group							58091
TOTAL ALL BUDGET FUND GROUPS							58092
FAMILY FARM LOAN PROGRAM							58093
Notwithstanding Chapter 166. of the Revised Code, up to							58094
\$1,500,000 in each fiscal year shall be transferred from moneys in							58095
the Facilities Establishment Fund (Fund 037) to the Family Farm							58096
Loan Fund (Fund 5H1) in the Department of Development. These							58097
moneys shall be used for loan guarantees. The transfer is subject							58098
to Controlling Board approval.							58099
Financial assistance from the Family Farm Loan Fund (Fund							58100
5H1) shall be repaid to Fund 5H1. This fund is established in							58101
accordance with sections 166.031, 901.80, 901.81, 901.82, and							58102
901.83 of the Revised Code.							58103
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,							58104
all outstanding balances, all loan repayments, and any other							58105
outstanding obligations shall revert to the Facilities							58106
Establishment Fund (Fund 037).							58107
CLEAN OHIO AGRICULTURAL EASEMENT							58108

The foregoing appropriation item 700-632, Clean Ohio
Agricultural Easement, shall be used by the Department of
Agriculture in administering sections 901.21, 901.22, and 5301.67
to 5301.70 of the Revised Code.

Section 13. AIR AIR QUALITY DEVELOPMENT AUTHORITY				58113
General Revenue Fund				58114
GRF 898-402	Coal Development	\$ 588,041	\$ 599,802	58115
	Office			
GRF 898-901	Coal R&D Gen	\$ 7,231,200	\$ 9,185,100	58116
	Obligation Debt			
	Service			
TOTAL GRF	General Revenue Fund	\$ 7,819,241	\$ 9,784,902	58117
Agency Fund Group				58118
4Z9 898-602	Small Business	\$ 233,482	\$ 233,482	58119
	Ombudsman			
5A0 898-603	Small Business	\$ 197,463	\$ 197,463	58120
	Assistance			
570 898-601	Operating Expenses	\$ 243,383	\$ 243,383	58121
TOTAL AGY	Agency Fund Group	\$ 674,328	\$ 674,328	58122
Coal Research/Development Fund				58123
046 898-604	Coal Research & Dev	\$ 13,168,357	\$ 13,168,357	58124
	Fund			
TOTAL 046	Coal Research & Dev Fund	\$ 13,168,357	\$ 13,168,357	58125
TOTAL ALL BUDGET FUND GROUPS		\$ 21,661,926	\$ 23,627,587	58126

Section 13.01. COAL DEVELOPMENT OFFICE 58128

The foregoing appropriation item GRF 898-402, Coal
Development Office, shall be used for the administrative costs of
the Coal Development Office.

Section 13.02. COAL RESEARCH AND DEVELOPMENT GENERAL 58132

OBLIGATION DEBT SERVICE 58133

The foregoing appropriation item GRF 898-901, Coal R&D Gen 58134
Obligation Debt Service, shall be used to pay all debt service and 58135
related financing costs at the times they are required to be made 58136
under sections 151.01 and 151.07 of the Revised Code during the 58137
period from July 1, 2003, to June 30, 2005. The Office of the 58138
Sinking Fund or the Director of Budget and Management shall 58139
effectuate the required payments by an intrastate transfer 58140
voucher. 58141

Section 13.03. SCIENCE AND TECHNOLOGY COLLABORATION 58142

The Air Quality Development Authority shall work in close 58143
collaboration with the Department of Development, Board of 58144
Regents, and the Third Frontier Commission in relation to 58145
appropriation items and programs listed in the following 58146
paragraph, and other technology-related appropriations and 58147
programs in the Department of Development, Air Quality Development 58148
Authority, and the Board of Regents as those agencies may 58149
designate, to ensure implementation of a coherent state strategy 58150
with respect to science and technology. 58151

Each of the following appropriations and programs: 195-401, 58152
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 58153
Third Frontier Action Fund; 898-604, Coal Research and Development 58154
Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer 58155
Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural 58156
Research and Development Center; 235-553, Dayton Area Graduate 58157
Studies Institute; 235-554, Computer Science Graduate Education; 58158
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 58159
Research and Technology Transfer Trust, shall be reviewed annually 58160
by the Third Frontier Commission with respect to its development 58161
of complementary relationships within a combined state science and 58162
technology investment portfolio and its overall contribution to 58163

the state's science and technology strategy, including the 58164
adoption of appropriately consistent criteria for: 58165

(1) the scientific merit of activities supported by the 58166
program; 58167

(2) the relevance of the program's activities to commercial 58168
opportunities in the private sector; 58169

(3) the private sector's involvement in a process that 58170
continually evaluates commercial opportunities to use the work 58171
supported by the program; and 58172

(4) the ability of the program and recipients of grant 58173
funding from the program to engage in activities that are 58174
collaborative, complementary, and efficient with respect to the 58175
expenditure of state funds. 58176

All programs listed in the preceding paragraph shall provide 58177
annual reports to the Third Frontier Commission discussing 58178
existing, planned, or possible collaborations between programs and 58179
recipients of grant funding related to technology, development, 58180
commercialization, and supporting Ohio's economic development. The 58181
annual review by the Third Frontier Commission shall be a 58182
comprehensive review of the entire state science and technology 58183
program portfolio rather than a review of individual programs. 58184

Section 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 58185
SERVICES 58186

General Revenue Fund 58187

GRF 038-321 Operating Expenses \$ 1,200,293 \$ 1,200,293 58188

GRF 038-401 Treatment Services \$ 36,012,306 \$ 36,012,306 58189

GRF 038-404 Prevention Services \$ 1,055,033 \$ 1,055,033 58190

TOTAL GRF General Revenue Fund \$ 38,267,632 \$ 38,267,632 58191

General Services Fund 58192

5T9 038-616 Problem Gambling \$ 60,000 \$ 60,000 58193

Services			
TOTAL GSF General Services Fund	\$	60,000	\$ 60,000 58194
Group			
Federal Special Revenue Fund Group			58195
3G3 038-603 Drug Free Schools	\$	3,500,000	\$ 3,500,000 58196
3G4 038-614 Substance Abuse Block	\$	67,335,499	\$ 68,079,223 58197
Grant			
3H8 038-609 Demonstration Grants	\$	7,093,075	\$ 7,093,075 58198
3J8 038-610 Medicaid	\$	30,000,000	\$ 30,000,000 58199
3N8 038-611 Administrative	\$	500,000	\$ 500,000 58200
Reimbursement			
TOTAL FED Federal Special Revenue			58201
Fund Group	\$	108,428,574	\$ 109,172,298 58202
State Special Revenue Fund Group			58203
475 038-621 Statewide Treatment	\$	15,191,182	\$ 15,191,182 58204
and Prevention			
5P1 038-615 Credentialing	\$	225,000	\$ 0 58205
689 038-604 Education and	\$	280,000	\$ 280,000 58206
Conferences			
TOTAL SSR State Special Revenue			58207
Fund Group	\$	15,696,182	\$ 15,471,182 58208
TOTAL ALL BUDGET FUND GROUPS	\$	162,452,388	\$ 162,971,112 58209
AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY			58210
Of the foregoing appropriation item 038-401, Treatment			58211
Services, \$4 million in each fiscal year shall be allocated for			58212
services to families, adults, and adolescents pursuant to the			58213
requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.			58214
TALBERT HOUSE			58215
Of the foregoing appropriation item 038-401, Treatment			58216
Services, \$200,000 in each fiscal year shall be allocated to			58217
establish a Talbert House Facility in Butler County.			58218

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS				58219
Of the foregoing appropriation item 038-401, Treatment				58220
Services, \$5 million each year shall be used to fund TANF-eligible				58221
expenditures for substance abuse prevention and treatment services				58222
to children, or their families, whose income is at or below 200				58223
per cent of the official income poverty guideline. The Director of				58224
Alcohol and Drug Addiction Services and the Director of Job and				58225
Family Services shall develop operating and reporting guidelines				58226
for these programs.				58227
PARENT AWARENESS TASK FORCE				58228
The Parent Awareness Task Force shall study ways to engage				58229
more parents in activities, coalitions, and educational programs				58230
in Ohio relating to alcohol and other drug abuse prevention. Of				58231
the foregoing appropriation item 038-404, Prevention Services,				58232
\$30,000 in each fiscal year may be used to support the functions				58233
of the Parent Awareness Task Force.				58234
Section 15. AMB AMBULANCE LICENSING BOARD				58235
General Services Fund Group				58236
4N1 915-601 Operating Expenses	\$	272,340	\$ 284,054	58237
TOTAL GSF General Services				58238
Fund Group	\$	272,340	\$ 284,054	58239
TOTAL ALL BUDGET FUND GROUPS	\$	272,340	\$ 284,054	58240
Section 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS				58242
General Services Fund Group				58243
4K9 891-609 Operating Expenses	\$	480,574	\$ 479,574	58244
TOTAL GSF General Services Fund				58245
Group	\$	480,574	\$ 479,574	58246
TOTAL ALL BUDGET FUND GROUPS	\$	480,574	\$ 479,574	58247

Section 17. ART OHIO ARTS COUNCIL				58249
General Revenue Fund				58250
GRF 370-100 Personal Services	\$	1,896,848	\$ 1,892,879	58251
GRF 370-200 Maintenance	\$	547,404	\$ 532,998	58252
GRF 370-300 Equipment	\$	27,788	\$ 27,056	58253
GRF 370-502 Program Subsidies	\$	9,896,320	\$ 9,648,912	58254
TOTAL GRF General Revenue Fund	\$	12,368,360	\$ 12,101,845	58255
General Services Fund Group				58256
4B7 370-603 Per Cent for Art	\$	86,366	\$ 86,366	58257
Acquisitions				
460 370-602 Gifts and Donations	\$	429,325	\$ 429,325	58258
TOTAL GSF General Services Fund	\$	515,691	\$ 515,691	58259
Group				
Federal Special Revenue Fund Group				58260
314 370-601 Federal Programs	\$	1,657,300	\$ 1,657,300	58261
TOTAL FED Federal Special Revenue	\$	1,657,300	\$ 1,657,300	58262
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	14,541,351	\$ 14,274,836	58263
PROGRAM SUBSIDIES				58264
A museum is not eligible to receive funds from appropriation				58265
item 370-502, Program Subsidies, if \$8,000,000 or more in capital				58266
appropriations were appropriated by the state for the museum				58267
between January 1, 1986, and December 31, 2002.				58268
PER CENT FOR ART ACQUISITIONS				58269
The unencumbered balance remaining from prior projects of				58270
appropriation item 370-603, Per Cent for Art Acquisitions, shall				58271
be used by the Ohio Arts Council to pay for start-up costs in				58272
connection with the selection of artists of new Per Cent for Art				58273
projects.				58274

Section 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION				58275
General Revenue Fund				58276
GRF 371-321 Operating Expenses	\$	67,451	\$ 67,451	58277
GRF 371-401 Lease Rental Payments	\$	36,283,800	\$ 37,617,700	58278
TOTAL GRF General Revenue Fund	\$	36,351,251	\$ 37,685,151	58279
State Special Revenue Fund Group				58280
4T8 371-601 Riffe Theatre	\$	23,194	\$ 23,194	58281
Equipment Maintenance				
4T8 371-603 Project Administration	\$	1,035,377	\$ 1,074,339	58282
TOTAL SSR State Special Revenue	\$	1,058,571	\$ 1,097,533	58283
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	37,409,822	\$ 38,782,684	58284
OHIO BUILDING AUTHORITY LEASE PAYMENTS				58285
The foregoing appropriation item 371-401, Lease Rental				58286
Payments, shall be used by the Arts and Sports Facilities				58287
Commission for payments to the Ohio Building Authority for the				58288
period from July 1, 2003, to June 30, 2005, pursuant to the				58289
primary leases and agreements for those buildings made under				58290
Chapter 152. of the Revised Code, but limited to the aggregate				58291
amount of \$73,901,500. This appropriation is the source of funds				58292
pledged for bond service charges on related obligations issued				58293
pursuant to Chapter 152. of the Revised Code.				58294
OPERATING EXPENSES				58295
The foregoing appropriation item 371-603, Project				58296
Administration, shall be used by the Ohio Arts and Sports				58297
Facilities Commission to carry out its responsibilities pursuant				58298
to this section and Chapter 3383. of the Revised Code.				58299
Within ten days after the effective date of this section, or				58300
as soon as possible thereafter, the Director of Budget and				58301
Management shall determine the amount of cash from interest				58302

earnings to be transferred from the Arts Facilities Building Fund 58303
(Fund 030) and the Sports Facilities Building Fund (Fund 024) to 58304
the Arts and Sports Facilities Commission Administration Fund 58305
(Fund 4T8). The total amount transferred in fiscal year 2004 and 58306
fiscal year 2005 may not exceed the total biennial appropriation 58307
of \$2,109,716 in appropriation item 371-603, Project 58308
Administration. 58309

By July 10, 2004, or as soon as possible thereafter, the 58310
Director of Budget and Management shall determine the amount of 58311
cash from interest earnings to be transferred from the Arts 58312
Facilities Building Fund (Fund 030) and the Sports Facilities 58313
Building Fund (Fund 024) to the Arts and Sports Commission 58314
Administration Fund (Fund 4T8). The total amount transferred in 58315
fiscal year 2004 and in fiscal year 2005 may not exceed the total 58316
biennial appropriation of \$2,109,716 in appropriation item 58317
371-603, Project Administration. 58318

Section 19. ATH ATHLETIC COMMISSION 58319

General Services Fund Group 58320

4K9 175-609 Athletic Commission - \$ 188,250 \$ 200,205 58321

Operating

TOTAL GSF General Services Fund \$ 188,250 \$ 200,205 58322

Group

TOTAL ALL BUDGET FUND GROUPS \$ 188,250 \$ 200,205 58323

TRANSFER OF CASH BALANCE FROM FUND 5R1 58324

On July 1, 2003, or as soon thereafter as possible, the 58325
Director of Budget and Management shall transfer the cash balance 58326
in the Athlete Agents Registration Fund (Fund 5R1) that was 58327
created in former section 4771.22 of the Revised Code to the 58328
Occupational Licensing and Regulatory Fund (Fund 4K9). The 58329
director shall cancel any existing encumbrances against 58330
appropriation item 175-602, Athlete Agents Registration (Fund 58331

5R1), and reestablish them against appropriation item 175-609, 58332
 Athletic Commission - Operating (Fund 4K9). The amounts of the 58333
 reestablished encumbrances are hereby appropriated. 58334

Section 20. AGO ATTORNEY GENERAL 58335

General Revenue Fund 58336

GRF 055-321 Operating Expenses \$ 53,885,937 \$ 53,885,937 58337

GRF 055-406 Community Police Match \$ 2,258,843 \$ 2,258,843 58338
 and Law Enforcement
 Assistance

GRF 055-411 County Sheriffs \$ 574,168 \$ 574,168 58339

GRF 055-415 County Prosecutors \$ 481,245 \$ 481,245 58340

TOTAL GRF General Revenue Fund \$ 57,200,193 \$ 57,200,193 58341

General Services Fund Group 58342

106 055-612 General Reimbursement \$ 18,870,196 \$ 18,870,196 58343

107 055-624 Employment Services \$ 984,396 \$ 984,396 58344

195 055-660 Workers' Compensation \$ 7,769,628 \$ 7,769,628 58345
 Section

4Y7 055-608 Title Defect \$ 570,623 \$ 570,623 58346
 Rescission

4Z2 055-609 BCI Asset Forfeiture \$ 332,109 \$ 332,109 58347
 and Cost Reimbursement

418 055-615 Charitable Foundations \$ 1,899,066 \$ 1,899,066 58348

420 055-603 Attorney General \$ 446,449 \$ 446,449 58349
 Antitrust

421 055-617 Police Officers' \$ 1,193,213 \$ 1,193,213 58350
 Training Academy Fee

5A9 055-618 Telemarketing Fraud \$ 52,378 \$ 52,378 58351
 Enforcement

590 055-633 Peace Officer Private \$ 98,370 \$ 98,370 58352
 Security Fund

629 055-636 Corrupt Activity \$ 108,230 \$ 108,230 58353

		Investigation and Prosecution				
631	055-637	Consumer Protection Enforcement	\$	1,373,832	\$	1,373,832 58354
TOTAL GSF General Services Fund						58355
Group			\$	33,698,490	\$	33,698,490 58356
Federal Special Revenue Fund Group						58357
3E5	055-638	Anti-Drug Abuse	\$	1,923,400	\$	1,981,102 58358
3R6	055-613	Attorney General	\$	3,730,191	\$	3,842,097 58359
		Federal Funds				
306	055-620	Medicaid Fraud Control	\$	2,882,970	\$	2,969,459 58360
381	055-611	Civil Rights Legal Service	\$	390,815	\$	390,815 58361
383	055-634	Crime Victims Assistance	\$	17,561,250	\$	18,439,313 58362
TOTAL FED Federal Special Revenue						58363
Fund Group			\$	26,488,626	\$	27,622,786 58364
State Special Revenue Fund Group						58365
402	055-616	Victims of Crime	\$	27,933,893	\$	27,933,893 58366
417	055-621	Domestic Violence Shelter	\$	14,492	\$	14,492 58367
419	055-623	Claims Section	\$	13,649,954	\$	13,649,954 58368
659	055-641	Solid and Hazardous Waste Background Investigations	\$	621,159	\$	621,159 58369
TOTAL SSR State Special Revenue						58370
Fund Group			\$	42,219,498	\$	42,219,498 58371
Holding Account Redistribution Fund Group						58372
R03	055-629	Bingo License Refunds	\$	5,200	\$	5,200 58373
R04	055-631	General Holding Account	\$	275,000	\$	275,000 58374
R05	055-632	Antitrust Settlements	\$	10,400	\$	10,400 58375

R18 055-630 Consumer Frauds	\$	750,000	\$	750,000	58376
R42 055-601 Organized Crime	\$	200,000	\$	200,000	58377
Commission Account					
TOTAL 090 Holding Account					58378
Redistribution Fund Group	\$	1,240,600	\$	1,240,600	58379
TOTAL ALL BUDGET FUND GROUPS	\$	160,847,407	\$	161,981,567	58380
WORKERS' COMPENSATION SECTION					
The Workers' Compensation Section Fund (Fund 195) shall					58382
receive payments from the Bureau of Workers' Compensation and the					58383
Ohio Industrial Commission at the beginning of each quarter of					58384
each fiscal year to fund legal services to be provided to the					58385
Bureau of Workers' Compensation and the Ohio Industrial Commission					58386
during the ensuing quarter. Such advance payment shall be subject					58387
to adjustment.					58388
In addition, the Bureau of Workers' Compensation shall					58389
transfer payments at the beginning of each quarter for the support					58390
of the Workers' Compensation Fraud Unit.					58391
All amounts shall be mutually agreed upon by the Attorney					58392
General, the Bureau of Workers' Compensation, and the Ohio					58393
Industrial Commission.					58394
CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION					
The foregoing appropriation item 055-636, Corrupt Activity					58396
Investigation and Prosecution, shall be used as provided by					58397
division (D)(2) of section 2923.35 of the Revised Code to dispose					58398
of the proceeds, fines, and penalties credited to the Corrupt					58399
Activity Investigation and Prosecution Fund, which is created in					58400
division (D)(1)(b) of section 2923.35 of the Revised Code. If it					58401
is determined that additional amounts are necessary, the amounts					58402
are hereby appropriated.					58403
COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE					
58404					

In fiscal years 2004 and 2005, the Attorney General's Office 58405
 may request the Director of Budget and Management to transfer 58406
 appropriation authority from appropriation item 055-321, Operating 58407
 Expenses, to appropriation item 055-406, Community Police Match 58408
 and Law Enforcement Assistance. The Director of Budget and 58409
 Management shall then transfer appropriation authority from 58410
 appropriation item 055-321, Operating Expenses, to appropriation 58411
 item 055-406, Community Police Match and Law Enforcement 58412
 Assistance. Moneys transferred to appropriation item 055-406, 58413
 Community Police Match and Law Enforcement Assistance, shall be 58414
 used to pay operating expenses and to provide grants to local law 58415
 enforcement agencies and communities for the purpose of supporting 58416
 law enforcement-related activities. 58417

Section 21. AUD AUDITOR OF STATE 58418

General Revenue Fund				58419
GRF 070-321 Operating Expenses	\$	31,038,838	\$ 31,038,838	58420
GRF 070-403 Fiscal Watch/Emergency	\$	200,180	\$ 200,180	58421
Technical Assistance				
GRF 070-405 Electronic Data	\$	823,193	\$ 823,193	58422
Processing - Auditing				
and Administration				
GRF 070-406 Uniform Accounting	\$	1,548,773	\$ 1,548,773	58423
Network/Technology				
Improvements Fund				
TOTAL GRF General Revenue Fund	\$	33,610,984	\$ 33,610,984	58424
General Services Fund Group				58425
109 070-601 Public Audit Expense -	\$	10,592,547	\$ 11,651,800	58426
Intra-State				
422 070-601 Public Audit Expense -	\$	37,617,072	\$ 39,497,925	58427
Local Government				
584 070-603 Training Program	\$	124,999	\$ 131,250	58428

675 070-605 Uniform Accounting	\$	3,015,760	\$	3,317,336	58429
Network					
TOTAL GSF General Services Fund					58430
Group	\$	51,350,378	\$	54,598,311	58431
Holding Account Redistribution Fund Group					58432
R06 070-604 Continuous Receipts	\$	50,000	\$	60,000	58433
TOTAL 090 Holding Account					58434
Redistribution Fund Group	\$	50,000	\$	60,000	58435
TOTAL ALL BUDGET FUND GROUPS	\$	85,011,362	\$	88,269,295	58436

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 58437

The foregoing appropriation item 070-403, Fiscal 58438
 Watch/Emergency Technical Assistance, shall be used for all 58439
 expenses incurred by the Office of the Auditor of State in its 58440
 role relating to fiscal watch or fiscal emergency activities under 58441
 Chapters 118. and 3316. of the Revised Code. Expenses include, but 58442
 are not limited to, the following: duties related to the 58443
 determination or termination of fiscal watch or fiscal emergency 58444
 of municipal corporations, counties, or townships as outlined in 58445
 Chapter 118. of the Revised Code and of school districts as 58446
 outlined in Chapter 3316. of the Revised Code; development of 58447
 preliminary accounting reports; performance of annual forecasts; 58448
 provision of performance audits; and supervisory, accounting, or 58449
 auditing services for the mentioned public entities and school 58450
 districts. The unencumbered balance of appropriation item 070-403, 58451
 Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 58452
 year 2004 is transferred to fiscal year 2005 for use under the 58453
 same appropriation item. 58454

ELECTRONIC DATA PROCESSING 58455

The unencumbered balance of appropriation item 070-405, 58456
 Electronic Data Processing - Auditing and Administration, at the 58457
 end of fiscal year 2004 is transferred to fiscal year 2005 for use 58458

under the same appropriation item.				58459
UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND				58460
The foregoing appropriation item 070-406, Uniform Accounting				58461
Network/Technology Improvements Fund, shall be used to pay the				58462
costs of developing and implementing the Uniform Accounting				58463
Network and technology improvements for the Office of the Auditor				58464
of State. The unencumbered balance of the appropriation at the end				58465
of fiscal year 2004 is transferred to fiscal year 2005 to pay the				58466
costs of developing and implementing the Uniform Accounting				58467
Network and technology improvements for the Office of the Auditor				58468
of State.				58469
Section 22. BRB BOARD OF BARBER EXAMINERS				58470
General Services Fund Group				58471
4K9 877-609 Operating Expenses	\$	535,853	\$ 555,037	58472
TOTAL GSF General Services Fund				58473
Group	\$	535,853	\$ 555,037	58474
TOTAL ALL BUDGET FUND GROUPS	\$	535,853	\$ 555,037	58475
Section 23. OBM OFFICE OF BUDGET AND MANAGEMENT				58477
General Revenue Fund				58478
GRF 042-321 Budget Development and	\$	3,087,913	\$ 2,850,687	58479
Implementation				
GRF 042-409 Commission Closures	\$	95,000	\$ 0	58480
GRF 042-410 National Association	\$	27,089	\$ 27,902	58481
Dues				
GRF 042-412 Audit of Auditor of	\$	49,450	\$ 51,000	58482
State				
TOTAL GRF General Revenue Fund	\$	3,259,452	\$ 2,929,589	58483
General Services Fund Group				58484
105 042-603 State Accounting	\$	9,131,651	\$ 9,375,862	58485
TOTAL GSF General Services Fund	\$	9,131,651	\$ 9,375,862	58486

Group

State Special Revenue Fund Group				58487
5N4 042-602 OAKS Project	\$	2,062,875	\$ 2,069,125	58488
Implementation				
TOTAL SSR State Special Revenue	\$	2,062,875	\$ 2,069,125	58489
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	14,453,978	\$ 14,374,576	58490
STATE SERVICES REVIEW				58491
Of the forgoing appropriation item, 042-321, Budget				58492
Development and Implementation, \$495,444 in fiscal year 2004 and				58493
\$495,443 in fiscal year 2005 shall be used to support the duties				58494
described in the sections of this act entitled "State Services				58495
Review."				58496
AUDIT COSTS				58497
Of the foregoing appropriation item 042-603, State				58498
Accounting, not more than \$400,000 in fiscal year 2004 and				58499
\$415,000 in fiscal year 2005 shall be used to pay for centralized				58500
audit costs associated with either Single Audit Schedules or				58501
financial statements prepared in conformance with generally				58502
accepted accounting principles for the state.				58503
Section 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD				58504
General Revenue Fund				58505
GRF 874-321 Operating Expenses	\$	2,803,662	\$ 2,784,329	58506
TOTAL GRF General Revenue Fund	\$	2,803,662	\$ 2,784,329	58507
General Services Fund Group				58508
4G5 874-603 Capitol Square	\$	15,000	\$ 15,000	58509
Maintenance Expenses				
4S7 874-602 Statehouse Gift	\$	770,484	\$ 770,484	58510
Shop/Events				
TOTAL GSF General Services				58511

Fund Group	\$	785,484	\$	785,484	58512
Underground Parking Garage					58513
208 874-601 Underground Parking	\$	2,996,801	\$	2,959,721	58514
Garage Operating					
TOTAL UPG Underground Parking					58515
Garage	\$	2,996,801	\$	2,959,721	58516
TOTAL ALL BUDGET FUND GROUPS	\$	6,585,947	\$	6,529,534	58517

Section 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS 58519

General Services Fund Group					58520
4K9 233-601 Operating Expenses	\$	404,025	\$	431,525	58521
TOTAL GSF General Services Fund	\$	404,025	\$	431,525	58522
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$	431,525	58523

Section 26. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 58525

General Services Fund Group					58526
4K9 930-609 Operating Expenses	\$	225,000	\$	450,000	58527
TOTAL GSF General Services Fund	\$	225,000	\$	450,000	58528
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$	450,000	58529

Notwithstanding any other law to the contrary, upon 58530
certification by the Director of Administrative Services, the 58531
Director of Budget and Management may transfer cash in an amount 58532
not to exceed the fiscal year 2004 appropriation from Fund 5P1 58533
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 58534
amount transferred is hereby appropriated. The cash shall be used 58535
to pay expenses related to establishing the Chemical Dependency 58536
Professionals Board, including, but not limited to, travel 58537
reimbursement of board members. 58538

Upon completion of the transition of the Department of 58539
Alcohol and Drug Addiction's certificates and credentials issuance 58540

program to the Chemical Dependency Professionals Board, the 58541
Director of Alcohol and Drug Addiction Services shall certify to 58542
the Director of Budget and Management the remaining cash in Fund 58543
5P1 (Credentialing Fund). The Director of Budget and Management 58544
shall transfer the certified balance from Fund 5P1 to Fund 4K9 58545
(Occupational Licensing). This transition shall be completed in 58546
accordance with Section 5 of Am. Sub. H.B. 496 of the 124th 58547
General Assembly. 58548

Section 27. CHR STATE BOARD OF CHIROPRACTIC EXAMINERS 58549

General Services Fund Group 58550
4K9 878-609 Operating Expenses \$ 591,724 \$ 591,724 58551
TOTAL GSF General Services Fund 58552
Group \$ 591,724 \$ 591,724 58553
TOTAL ALL BUDGET FUND GROUPS \$ 591,724 \$ 591,724 58554

CHIROPRACTIC LICENSE EXAMINATION REQUIREMENTS 58555

If the State Chiropractic Board refused to issue a license to 58556
practice chiropractic to an individual solely because the 58557
individual did not meet the examination requirements of division 58558
(B)(4)(b) or (c) of section 4734.20 of the Revised Code, as 58559
specified on and after the effective date of Am. Sub. H.B. 506 of 58560
the 123rd General Assembly but before the effective date of this 58561
section, the Board shall reconsider the application and issue or 58562
refuse to issue a license according to the examination 58563
requirements specified in division (B)(4)(b) or (c) of section 58564
4734.20 of the Revised Code, as amended by this act. 58565

Section 28. CIV OHIO CIVIL RIGHTS COMMISSION 58566

General Revenue Fund 58567
GRF 876-100 Personal Services \$ 7,000,000 \$ 7,000,000 58568
GRF 876-200 Maintenance \$ 400,000 \$ 400,000 58569
GRF 876-300 Equipment \$ 91,298 \$ 91,298 58570

TOTAL GRF General Revenue Fund	\$	7,491,298	\$	7,491,298	58571
Federal Special Revenue Fund Group					58572
334 876-601 Federal Programs	\$	3,965,000	\$	3,790,000	58573
TOTAL FED Federal Special Revenue					58574
Fund Group	\$	3,965,000	\$	3,790,000	58575
State Special Revenue Fund Group					58576
217 876-604 General Reimbursement	\$	20,951	\$	20,951	58577
TOTAL SSR State Special					58578
Revenue Fund Group	\$	20,951	\$	20,951	58579
TOTAL ALL BUDGET FUND GROUPS	\$	11,477,249	\$	11,302,249	58580

Section 29. COM DEPARTMENT OF COMMERCE 58582

General Revenue Fund					58583
GRF 800-402 Grants-Volunteer Fire	\$	647,953	\$	647,953	58584
Departments					
GRF 800-410 Labor and Worker	\$	3,700,040	\$	3,725,040	58585
Safety					
Total GRF General Revenue Fund	\$	4,347,993	\$	4,372,993	58586
General Services Fund Group					58587
163 800-620 Division of	\$	3,385,803	\$	3,490,056	58588
Administration					
163 800-637 Information Technology	\$	4,982,851	\$	5,001,315	58589
5F1 800-635 Small Government Fire	\$	250,000	\$	250,000	58590
Departments					
TOTAL GSF General Services Fund					58591
Group	\$	8,618,654	\$	8,741,371	58592
Federal Special Revenue Fund Group					58593
348 800-622 Underground Storage	\$	195,008	\$	195,008	58594
Tanks					
348 800-624 Leaking Underground	\$	1,850,000	\$	1,850,000	58595
Storage Tanks					

349	800-626	OSHA Enforcement	\$	1,527,750	\$	1,604,140	58596
TOTAL FED Federal Special Revenue							58597
Fund Group			\$	3,572,758	\$	3,649,148	58598
State Special Revenue Fund Group							58599
4B2	800-631	Real Estate Appraisal	\$	60,000	\$	60,000	58600
Recovery							
4H9	800-608	Cemeteries	\$	273,465	\$	273,465	58601
4L5	800-609	Fireworks Training and	\$	10,976	\$	10,976	58602
Education							
4X2	800-619	Financial Institutions	\$	1,760,798	\$	1,940,843	58603
5B9	800-632	PI & Security Guard	\$	1,188,716	\$	1,188,716	58604
Provider							
5K7	800-621	Penalty Enforcement	\$	50,000	\$	50,000	58605
543	800-602	Unclaimed	\$	7,051,051	\$	7,051,051	58606
Funds-Operating							
543	800-625	Unclaimed Funds-Claims	\$	25,512,867	\$	25,512,867	58607
544	800-612	Banks	\$	6,657,997	\$	6,657,997	58608
545	800-613	Savings Institutions	\$	2,765,618	\$	2,894,330	58609
546	800-610	Fire Marshal	\$	11,723,994	\$	11,787,994	58610
547	800-603	Real Estate	\$	250,000	\$	250,000	58611
Education/Research							
548	800-611	Real Estate Recovery	\$	100,000	\$	100,000	58612
549	800-614	Real Estate	\$	3,586,754	\$	3,705,892	58613
550	800-617	Securities	\$	4,600,000	\$	4,800,000	58614
552	800-604	Credit Union	\$	2,613,356	\$	2,751,852	58615
553	800-607	Consumer Finance	\$	3,194,787	\$	3,228,019	58616
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257	58617
6A4	800-630	Real Estate	\$	658,506	\$	664,006	58618
Appraiser-Operating							
653	800-629	UST	\$	1,353,632	\$	1,249,632	58619
Registration/Permit							
Fee							
TOTAL SSR State Special Revenue							58620

Fund Group	\$	98,040,204	\$	99,214,897	58621
Liquor Control Fund Group					58622
043 800-601 Merchandising	\$	341,079,554	\$	353,892,432	58623
043 800-627 Liquor Control Operating	\$	15,278,936	\$	14,012,955	58624
043 800-633 Economic Development Debt Service	\$	23,277,500	\$	29,029,500	58625
043 800-636 Revitalization Debt Service	\$	4,747,800	\$	9,736,300	58626
TOTAL LCF Liquor Control					58627
Fund Group	\$	384,383,790	\$	406,671,187	58628
TOTAL ALL BUDGET FUND GROUPS	\$	498,963,399	\$	522,649,596	58629

GRANTS-VOLUNTEER FIRE DEPARTMENTS 58630

The foregoing appropriation item 800-402, Grants-Volunteer 58631
 Fire Departments, shall be used to make annual grants to volunteer 58632
 fire departments of up to \$10,000, or up to \$25,000 if the 58633
 volunteer fire department provides service for an area affected by 58634
 a natural disaster. The grant program shall be administered by the 58635
 Fire Marshal under the Department of Commerce. The Fire Marshal 58636
 shall adopt rules necessary for the administration and operation 58637
 of the grant program. 58638

LABOR AND WORKER SAFETY 58639

The Department of Commerce may designate a portion of 58640
 appropriation item 800-410, Labor and Worker Safety, to be used to 58641
 match federal funding for the OSHA on-site consultation program. 58642

SMALL GOVERNMENT FIRE DEPARTMENTS 58643

Upon the request of the Director of Commerce, the Director of 58644
 Budget and Management shall transfer \$250,000 cash in each fiscal 58645
 year from the State Fire Marshal Fund (Fund 546) within the State 58646
 Special Revenue Fund Group to the Small Government Fire 58647
 Departments Fund (Fund 5F1) within the General Services Fund 58648

Group.	58649
Notwithstanding section 3737.17 of the Revised Code, the	58650
foregoing appropriation item 800-635, Small Government Fire	58651
Departments, may be used to provide loans to private fire	58652
departments.	58653
PENALTY ENFORCEMENT	58654
The foregoing appropriation item 800-621, Penalty	58655
Enforcement, shall be used to enforce sections 4115.03 to 4115.16	58656
of the Revised Code.	58657
UNCLAIMED FUNDS PAYMENTS	58658
The foregoing appropriation item 800-625, Unclaimed	58659
Funds-Claims, shall be used to pay claims pursuant to section	58660
169.08 of the Revised Code. If it is determined that additional	58661
amounts are necessary, the amounts are hereby appropriated.	58662
BANKS FUND (FUND 544) TRANSFER TO THE GRF	58663
On July 31, 2003, or as soon as possible thereafter, the	58664
Director of Budget and Management shall transfer \$2,000,000 cash	58665
from the Banks Fund (Fund 544) to the General Revenue Fund.	58666
FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF	58667
On July 31, 2003, or as soon as possible thereafter, the	58668
Director of Budget and Management shall transfer \$10,000,000 cash	58669
from the Fire Marshal Fund (Fund 546) to the General Revenue Fund.	58670
REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF	58671
On July 31, 2003, or as soon as possible thereafter, the	58672
Director of Budget and Management shall transfer \$1,000,000 cash	58673
from the Real Estate Fund (Fund 549) to the General Revenue Fund.	58674
INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF	58675
On July 31, 2003, or as soon as possible thereafter, the	58676
Director of Budget and Management shall transfer \$1,000,000 cash	58677

from the Industrial Compliance Fund (Fund 556), to the General Revenue Fund. 58678
58679

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 58680

The foregoing appropriation item 800-601, Merchandising, 58681
shall be used pursuant to section 4301.12 of the Revised Code. If 58682
it is determined that additional amounts are necessary, the 58683
amounts are hereby appropriated. 58684

ECONOMIC DEVELOPMENT DEBT SERVICE 58685

The foregoing appropriation item 800-633, Economic 58686
Development Debt Service, shall be used to meet all payments at 58687
the times they are required to be made during the period from July 58688
1, 2003, to June 30, 2005, for bond service charges on obligations 58689
issued under Chapter 166. of the Revised Code. If it is determined 58690
that additional appropriations are necessary for this purpose, 58691
such amounts are hereby appropriated, subject to the limitations 58692
set forth in section 166.11 of the Revised Code. The General 58693
Assembly acknowledges that an appropriation for this purpose is 58694
not required, but is made in this form and in this act for record 58695
purposes only. 58696

REVITALIZATION DEBT SERVICE 58697

The foregoing appropriation item 800-636, Revitalization Debt 58698
Service, shall be used to pay debt service and related financing 58699
costs under sections 151.01 and 151.40 of the Revised Code during 58700
the period from July 1, 2003, to June 30, 2005. If it is 58701
determined that additional appropriations are necessary for this 58702
purpose, such amounts are hereby appropriated. The General 58703
Assembly acknowledges the priority of the pledge of a portion of 58704
receipts from that source to obligations issued and to be issued 58705
under Chapter 166. of the Revised Code. 58706

ADMINISTRATIVE ASSESSMENTS 58707

Notwithstanding any other provision of law to the contrary, 58708
Fund 163, Division of Administration, shall receive assessments 58709
from all operating funds of the department in accordance with 58710
procedures prescribed by the Director of Commerce and approved by 58711
the Director of Budget and Management. 58712

Section 30. OCC OFFICE OF CONSUMERS' COUNSEL 58713

General Services Fund Group 58714
5F5 053-601 Operating Expenses \$ 9,277,519 \$ 9,277,519 58715
TOTAL GSF General Services Fund \$ 9,277,519 \$ 9,277,519 58716
Group
TOTAL ALL BUDGET FUND GROUPS \$ 9,277,519 \$ 9,277,519 58717

Section 31. CEB CONTROLLING BOARD 58719

General Revenue Fund 58720
GRF 911-401 Emergency \$ 5,000,000 \$ 5,000,000 58721
Purposes/Contingencies
GRF 911-404 Mandate Assistance \$ 1,462,500 \$ 1,462,500 58722
GRF 911-441 Ballot Advertising \$ 887,500 \$ 487,500 58723
Costs
TOTAL GRF General Revenue Fund \$ 7,350,000 \$ 6,950,000 58724
State Special Revenue Fund Group 58725
5E2 911-601 Disaster Services \$ 4,000,000 \$ 0 58726
TOTAL SSR State Special 58727
Revenue Fund Group \$ 4,000,000 \$ 0 58728
TOTAL ALL BUDGET FUND GROUPS \$ 11,350,000 \$ 6,950,000 58729

FEDERAL SHARE 58730

In transferring appropriations to or from appropriation items 58731
that have federal shares identified in this act, the Controlling 58732
Board shall add or subtract corresponding amounts of federal 58733
matching funds at the percentages indicated by the state and 58734

federal division of the appropriations in this act. Such changes 58735
are hereby appropriated. 58736

DISASTER ASSISTANCE 58737

Pursuant to requests submitted by the Department of Public 58738
Safety, the Controlling Board may approve transfers from the 58739
Emergency Purposes Fund to a Department of Public Safety General 58740
Revenue Fund appropriation item to provide funding for assistance 58741
to political subdivisions made necessary by natural disasters or 58742
emergencies. Such transfers may be requested and approved prior to 58743
the occurrence of any specific natural disasters or emergencies in 58744
order to facilitate the provision of timely assistance. 58745

SOUTHERN OHIO CORRECTIONAL FACILITY COST 58746

The Office of Criminal Justice Services and the Public 58747
Defender Commission may each request, upon approval of the 58748
Director of Budget and Management, additional funds from the 58749
Emergency Purposes Fund for costs related to the disturbance that 58750
occurred on April 11, 1993, at the Southern Ohio Correctional 58751
Facility in Lucasville, Ohio. 58752

DISASTER SERVICES 58753

Pursuant to requests submitted by the Department of Public 58754
Safety, the Controlling Board may approve transfers from the 58755
foregoing appropriation item 911-601, Disaster Services, to a 58756
Department of Public Safety General Revenue Fund appropriation 58757
item to provide for assistance to political subdivisions made 58758
necessary by natural disasters or emergencies. These transfers may 58759
be requested and approved prior to the occurrence of any specific 58760
natural disasters or emergencies in order to facilitate the 58761
provision of timely assistance. The Emergency Management Agency of 58762
the Department of Public Safety shall use the funding for disaster 58763
aid requests that meet the Emergency Management Agency's criteria 58764
for assistance. 58765

The foregoing appropriation item 911-601, Disaster Services, 58766
shall be used by the Controlling Board, pursuant to requests 58767
submitted by state agencies, to transfer cash and appropriation 58768
authority to any fund and appropriation item for the payment of 58769
state agency program expenses as follows: 58770

(A) The southern Ohio flooding, referred to as 58771
FEMA-DR-1164-OH; 58772

(B) The flood/storm disaster referred to as FEMA-DR-1227-OH; 58773

(C) The Southern Ohio flooding, referred to as 58774
FEMA-DR-1321-OH; 58775

(D) The flooding referred to as FEMA-DR-1339-OH; 58776

(E) The tornado/storms referred to as FEMA-DR-1343-OH; 58777

(F) Other disasters declared by the Governor, if the Director 58778
of Budget and Management determines that sufficient funds exist 58779
beyond the expected program costs of these disasters. 58780

The unencumbered balance of appropriation item 911-601, 58781
Disaster Services, at the end of fiscal year 2004 is transferred 58782
to fiscal year 2005 for use under the same appropriation item. 58783

MANDATE ASSISTANCE 58784

(A) The foregoing appropriation item 911-404, Mandate 58785
Assistance, shall be used to provide financial assistance to local 58786
units of government, school districts, and fire departments for 58787
the cost of the following three unfunded state mandates: 58788

(1) The cost to county prosecutors for prosecuting certain 58789
felonies that occur on the grounds of state institutions operated 58790
by the Department of Rehabilitation and Correction and the 58791
Department of Youth Services; 58792

(2) The cost, primarily to small villages and townships, of 58793
providing firefighter training and equipment or gear; 58794

(3) The cost to school districts of in-service training for child abuse detection. 58795
 58796

(B) The Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance. 58797
 58798
 58799
 58800
 58801
 58802
 58803
 58804

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Office of Criminal Justice Services	\$146,500	58807 58808
Firefighter Training Costs	Department of Commerce	\$731,000	58809
Child Abuse Detection Training Costs	Department of Education	\$585,000	58810

(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. 58811
 58812
 58813
 58814
 58815
 58816

(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. 58817
 58818
 58819
 58820
 58821
 58822
 58823

(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 procedures established for each program by the administering state agency; and the actual costs incurred by local units of government, school districts, and fire departments.

(F) Each of these programs of state financial assistance shall be carried out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Office of Criminal Justice Services to cover local prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Office of Criminal Justice Services shall adopt, apply to the Office of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Office of Criminal Justice Services

shall designate counties to receive grants from those counties 58855
that have submitted one or more applications in compliance with 58856
the rules that have been adopted by the Office of Criminal Justice 58857
Services for the receipt of such grants. In each year's first 58858
round of grant awards, if sufficient appropriations have been 58859
made, up to a total of \$100,000 may be awarded. In each year's 58860
second round of grant awards, the remaining appropriations 58861
available for this purpose may be awarded. 58862

(d) If for a given round of grants there are insufficient 58863
appropriations to make grant awards to all the eligible counties, 58864
the first priority shall be given to counties with cases involving 58865
aggravated murder and murder; second priority shall be given to 58866
cases involving a felony of the first degree; and third priority 58867
shall be given to cases involving a felony of the second degree. 58868
Within these priorities, the grant awards shall be based on the 58869
order in which the applications were received, except that 58870
applications for cases involving a felony of the first or second 58871
degree shall not be considered in more than two consecutive rounds 58872
of grant awards. 58873

(2) FIREFIGHTER TRAINING COSTS 58874

Appropriations may be transferred to the Department of 58875
Commerce for use as full or partial reimbursement to local units 58876
of government and fire departments for the cost of firefighter 58877
training and equipment or gear. In accordance with rules that the 58878
department shall adopt, a local unit of government or fire 58879
department may apply to the department for a grant to cover all 58880
documented costs that are incurred to provide firefighter training 58881
and equipment or gear. The department shall make grants within the 58882
limits of the funding provided, with priority given to fire 58883
departments that serve small villages and townships. 58884

(3) CHILD ABUSE DETECTION TRAINING COSTS 58885

Appropriations may be transferred to the Department of 58886
Education for disbursement to local school districts as full or 58887
partial reimbursement for the cost of providing in-service 58888
training for child abuse detection. In accordance with rules that 58889
the department shall adopt, a local school district may apply to 58890
the department for a grant to cover all documented costs that are 58891
incurred to provide in-service training for child abuse detection. 58892
The department shall make grants within the limits of the funding 58893
provided. 58894

(G) Any moneys allocated within appropriation item 911-404, 58895
Mandate Assistance, not fully utilized may, upon application of 58896
the Ohio Public Defender Commission, and with the approval of the 58897
Controlling Board, be disbursed to boards of county commissioners 58898
to provide additional reimbursement for the costs incurred by 58899
counties in providing defense to indigent defendants pursuant to 58900
Chapter 120. of the Revised Code. 58901

The amount to be disbursed to each county shall be allocated 58902
proportionately on the basis of the total amount of reimbursement 58903
paid to each county as a percentage of the amount of reimbursement 58904
paid to all of the counties during the most recent state fiscal 58905
year for which data is available and as calculated by the Ohio 58906
Public Defender Commission. 58907

BALLOT ADVERTISING COSTS 58908

Pursuant to requests submitted by the Ohio Ballot Board, the 58909
Controlling Board shall approve transfers from the foregoing 58910
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 58911
Ballot Board appropriation item in order to reimburse county 58912
boards of elections for the cost of public notices associated with 58913
statewide ballot initiatives. 58914

Of the foregoing appropriation item 911-441, Ballot 58915
Advertising Costs, \$400,000 in fiscal year 2004 shall be used for 58916

the advertising costs associated with the question concerning 58917
 electronic lottery devices submitted to the electors pursuant to 58918
 Section 145.03W of this act. 58919

Of the foregoing appropriation item 911-441, Ballot 58920
 Advertising Costs, the Director of Budget and Management shall 58921
 transfer any amounts that are not needed for the purpose of 58922
 reimbursing county boards of elections for the cost of public 58923
 notices associated with statewide ballot initiatives to 58924
 appropriation item 911-404, Mandate Assistance. 58925

Section 32. COS STATE BOARD OF COSMETOLOGY 58926

General Services Fund Group 58927
 4K9 879-609 Operating Expenses \$ 2,681,359 \$ 2,822,359 58928
 TOTAL GSF General Services Fund 58929
 Group \$ 2,681,359 \$ 2,822,359 58930
 TOTAL ALL BUDGET FUND GROUPS \$ 2,681,359 \$ 2,822,359 58931

Section 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND 58933
FAMILY THERAPIST BOARD 58934

General Services Fund Group 58935
 4K9 899-609 Operating Expenses \$ 1,021,524 \$ 1,044,812 58936
 TOTAL GSF General Services Fund 58937
 Group \$ 1,021,524 \$ 1,044,812 58938
 TOTAL ALL BUDGET FUND GROUPS \$ 1,021,524 \$ 1,044,812 58939

Section 34. CLA COURT OF CLAIMS 58941

General Revenue Fund 58942
 GRF 015-321 Operating Expenses \$ 2,452,000 \$ 2,477,000 58943
 TOTAL GRF General Revenue Fund \$ 2,452,000 \$ 2,477,000 58944
 State Special Revenue Fund Group 58945
 5K2 015-603 CLA Victims of Crime \$ 1,532,043 \$ 1,582,684 58946

TOTAL SSR State Special Revenue				58947
Fund Group	\$	1,532,043	\$ 1,582,684	58948
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$ 4,059,684	58949
OFFICE SPACE RENTAL EXPENSES				58950
Of the foregoing appropriation item 015-321, Operating				58951
Expenses, in fiscal year 2005, \$302,000 shall be for the purpose				58952
of paying fiscal year 2005 office space rental expenses. Upon				58953
approval of the Controlling Board, the Court of Claims may expend				58954
up to \$302,000 for the purpose of paying fiscal year 2005 office				58955
space rental expenses.				58956
Section 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES				58957
General Revenue Fund				58958
GRF 196-401 Criminal Justice	\$	534,570	\$ 520,503	58959
Information System				
GRF 196-403 Center for Violence	\$	20,000	\$ 20,000	58960
Prevention				
GRF 196-405 Violence Prevention	\$	707,076	\$ 688,469	58961
Subsidy				
GRF 196-424 Operating Expenses	\$	1,181,371	\$ 1,177,971	58962
TOTAL GRF General Revenue Fund	\$	2,443,017	\$ 2,406,943	58963
General Services Fund Group				58964
4P6 196-601 General Services	\$	135,450	\$ 86,500	58965
TOTAL GSF Services Fund Group	\$	135,450	\$ 86,500	58966
Federal Special Revenue Fund Group				58967
3L5 196-604 Justice Program	\$	30,334,908	\$ 30,311,870	58968
3U1 196-602 Criminal Justice	\$	1,000,000	\$ 0	58969
Federal Programs				
3V8 196-605 Federal Program	\$	250,000	\$ 0	58970
Purposes FFY 01				
TOTAL FED Federal Special Revenue	\$	31,584,908	\$ 30,311,870	58971

year 1999. 59001

Section 36. DEN STATE DENTAL BOARD 59002

General Services Fund Group 59003

4K9 880-609 Operating Expenses \$ 1,324,456 \$ 1,346,656 59004

TOTAL GSF General Services Fund 59005

Group \$ 1,324,456 \$ 1,346,656 59006

TOTAL ALL BUDGET FUND GROUPS \$ 1,324,456 \$ 1,346,656 59007

Section 37. BDP BOARD OF DEPOSIT 59009

General Services Fund Group 59010

4M2 974-601 Board of Deposit \$ 1,676,000 \$ 1,676,000 59011

TOTAL GSF General Services Fund 59012

Group \$ 1,676,000 \$ 1,676,000 59013

TOTAL ALL BUDGET FUND GROUPS \$ 1,676,000 \$ 1,676,000 59014

BOARD OF DEPOSIT EXPENSE FUND 59015

Upon receiving certification of expenses from the Treasurer 59016

of State, the Director of Budget and Management shall transfer 59017

cash from the Investment Earnings Redistribution Fund (Fund 608) 59018

to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 59019

shall be used to pay for banking charges and fees required for the 59020

operation of the State of Ohio Regular Account. 59021

Section 38. DEV DEPARTMENT OF DEVELOPMENT 59022

General Revenue Fund 59023

GRF 195-321 Operating Expenses \$ 2,695,236 \$ 3,020,115 59024

GRF 195-401 Thomas Edison Program \$ 16,334,934 \$ 16,334,934 59025

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 59026

Development

GRF 195-405 Minority Business \$ 1,620,755 \$ 1,669,378 59027

Development Division

GRF 195-407 Travel and Tourism \$ 4,549,345 \$ 4,549,345 59028

GRF 195-412	Business Development Grants	\$ 8,905,530	\$ 8,905,530	59029
GRF 195-414	First Frontier Match	\$ 389,987	\$ 389,987	59030
GRF 195-415	Economic Development Division and Regional Offices	\$ 5,594,975	\$ 5,594,975	59031
GRF 195-416	Governor's Office of Appalachia	\$ 4,372,324	\$ 4,372,324	59032
GRF 195-417	Urban/Rural Initiative	\$ 589,390	\$ 589,390	59033
GRF 195-422	Third Frontier Action Fund	\$ 16,790,000	\$ 16,790,000	59034
GRF 195-426	Clean Ohio Administration	\$ 518,730	\$ 518,730	59035
GRF 195-432	International Trade	\$ 4,492,713	\$ 4,492,713	59036
GRF 195-434	Investment in Training Grants	\$ 12,227,500	\$ 12,227,500	59037
GRF 195-436	Labor/Management Cooperation	\$ 811,869	\$ 811,869	59038
GRF 195-441	Low and Moderate Income Housing	\$ 44,000,000	\$ 44,000,000	59039
GRF 195-497	CDBG Operating Match	\$ 1,107,400	\$ 1,107,400	59040
GRF 195-498	State Energy Match	\$ 100,000	\$ 100,000	59041
GRF 195-501	Appalachian Local Development Districts	\$ 380,080	\$ 380,080	59042
GRF 195-502	Appalachian Regional Commission Dues	\$ 238,274	\$ 246,803	59043
GRF 195-507	Travel and Tourism Grants	\$ 780,000	\$ 780,000	59044
GRF 195-515	Economic Development Contingency	\$ 5,000,000	\$ 5,000,000	59045
GRF 195-905	Third Frontier Research & Commercialization	\$ 0	\$ 7,360,000	59046

General Obligation					
Debt Service					
TOTAL GRF General Revenue Fund	\$	133,239,764	\$	140,981,795	59047
General Services Fund Group					59048
135 195-605 Supportive Services	\$	7,417,068	\$	7,539,686	59049
136 195-621 International Trade	\$	24,915	\$	24,915	59050
685 195-636 General Reimbursements	\$	1,316,012	\$	1,232,530	59051
TOTAL GSF General Services Fund					59052
Group	\$	8,757,995	\$	8,797,131	59053
Federal Special Revenue Fund Group					59054
3K8 195-613 Community Development	\$	65,000,000	\$	65,000,000	59055
Block Grant					
3K9 195-611 Home Energy Assistance	\$	85,036,000	\$	85,036,000	59056
Block Grant					
3K9 195-614 HEAP Weatherization	\$	16,219,479	\$	16,219,479	59057
3L0 195-612 Community Services	\$	25,235,000	\$	25,235,000	59058
Block Grant					
3V1 195-601 HOME Program	\$	40,000,000	\$	40,000,000	59059
308 195-602 Appalachian Regional	\$	350,200	\$	350,200	59060
Commission					
308 195-603 Housing and Urban	\$	5,000,000	\$	5,000,000	59061
Development					
308 195-605 Federal Projects	\$	15,300,248	\$	15,300,248	59062
308 195-609 Small Business	\$	4,196,381	\$	4,296,381	59063
Administration					
308 195-618 Energy Federal Grants	\$	3,397,659	\$	3,397,659	59064
335 195-610 Oil Overcharge	\$	8,500,000	\$	8,500,000	59065
380 195-622 Housing Development	\$	5,606,080	\$	5,667,627	59066
Operating					
TOTAL FED Federal Special Revenue					59067
Fund Group	\$	273,841,047	\$	274,002,594	59068
State Special Revenue Fund Group					59069

4F2	195-639	State Special Projects	\$	540,183	\$	290,183	59070
4H4	195-641	First Frontier	\$	500,000	\$	500,000	59071
4S0	195-630	Enterprise Zone Operating	\$	211,900	\$	211,900	59072
4S1	195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800	59073
4W1	195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597	59074
444	195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775	59075
445	195-617	Housing Finance Operating	\$	5,040,843	\$	4,983,738	59076
450	195-624	Minority Business Bonding Program Administration	\$	13,563	\$	13,563	59077
451	195-625	Economic Development Financing Operating	\$	2,358,310	\$	2,358,310	59078
5M4	195-659	Universal Service	\$	170,000,000	\$	170,000,000	59079
5M5	195-660	Energy Efficiency Revolving Loan	\$	12,000,000	\$	12,000,000	59080
611	195-631	Water and Sewer Administration	\$	15,713	\$	15,713	59081
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000	59082
646	195-638	Low and Moderate Income Housing Trust Fund	\$	44,000,000	\$	44,000,000	59083
TOTAL SSR State Special Revenue							59084
Fund Group			\$	238,360,684	\$	238,053,579	59085
Facilities Establishment Fund Group							59086
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149	59087
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000	59088

		Loan				
5D2	195-650	Urban Redevelopment	\$	10,475,000	\$	10,475,000 59089
		Loans				
5H1	195-652	Family Farm Loan	\$	1,500,000	\$	1,500,000 59090
		Guarantee				
5S8	195-627	Rural Development	\$	5,000,000	\$	5,000,000 59091
		Initiative				
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000 59092
		Program				
TOTAL	037	Facilities				59093
Establishment		Fund Group	\$	88,906,149	\$	88,906,149 59094
Clean Ohio		Revitalization Fund				59095
003	195-663	Clean Ohio Operating	\$	150,000	\$	150,000 59096
TOTAL	003	Clean Ohio Revitalization	\$	150,000	\$	150,000 59097
Fund						
TOTAL ALL BUDGET FUND GROUPS			\$	743,255,639	\$	750,891,248

Section 38.01. THOMAS EDISON PROGRAM 59100

The foregoing appropriation item 195-401, Thomas Edison 59101
 Program, shall be used for the purposes of sections 122.28 to 59102
 122.38 of the Revised Code in order to provide funds for 59103
 cooperative public and private efforts in technological innovation 59104
 to promote the development and transfer of technology by and to 59105
 Ohio businesses that will lead to the creation of jobs, and to 59106
 provide for the administration of this program by the Technology 59107
 Division. 59108

Of the foregoing appropriation item 195-401, Thomas Edison 59109
 Program, not more than \$2,000,000 in fiscal year 2004 and 59110
 \$2,300,000 in fiscal year 2005 shall be used for operating 59111
 expenditures in administering the programs of the Technology 59112
 Division. 59113

Section 38.02. SMALL BUSINESS DEVELOPMENT 59114

The foregoing appropriation item 195-404, Small Business 59115
Development, shall be used to ensure that the unique needs and 59116
concerns of small businesses are addressed. 59117

The foregoing appropriation item 195-404, Small Business 59118
Development, may be used to provide grants to local organizations 59119
to support the operation of Small Business Development Centers and 59120
other local economic development activity promoting small 59121
business, and for the cost of administering the small business 59122
development center program. The centers shall provide technical, 59123
financial, and management consultation for small business and 59124
shall facilitate access to state and federal programs. These funds 59125
shall be used as matching funds for grants from the United States 59126
Small Business Administration and other federal agencies, pursuant 59127
to Public Law No. 96-302 (1980) as amended by Public Law No. 59128
98-395 (1984), and regulations and policy guidelines for the 59129
programs under this law. 59130

In addition, the Office of Small Business may operate the 59131
1st-Stop Business Connection and implement and coordinate the 59132
duties imposed on the Department of Development by Am. Sub. S.B. 59133
239 of the 115th General Assembly. 59134

MINORITY BUSINESS DEVELOPMENT DIVISION 59135

Of the foregoing appropriation item 195-405, Minority 59136
Business Development Division, up to \$1,060,000 but not less than 59137
\$954,000 in each fiscal year shall be used to fund minority 59138
contractors and business assistance organizations. The Minority 59139
Business Development Division shall determine which cities need 59140
minority contractors and business assistance organizations by 59141
utilizing United States Census Bureau data and zip codes to locate 59142
the highest concentrations of minority businesses. The Minority 59143

Business Development Division also shall determine the numbers of 59144
minority contractors and business assistance organizations 59145
necessary and the amount of funding to be provided each. In 59146
addition, the Minority Business Development Division shall 59147
continue to plan and implement business conferences. 59148

Section 38.04. BUSINESS DEVELOPMENT 59149

The foregoing appropriation item 195-412, Business 59150
Development Grants, shall be used as an incentive for attracting 59151
and retaining business opportunities for the state. Any such 59152
business opportunity, whether new, expanding, or relocating in 59153
Ohio, is eligible for funding. The project must create or retain a 59154
significant number of jobs for Ohioans. Grant awards may be 59155
considered only when (1) the project's viability hinges on an 59156
award of funds from appropriation item 195-412, Business 59157
Development Grants; (2) all other public or private sources of 59158
financing have been considered; or (3) the funds act as a catalyst 59159
for the infusion into the project of other financing sources. 59160

The department's primary goal shall be to award funds to 59161
political subdivisions of the state for off-site infrastructure 59162
improvements. In order to meet the particular needs of economic 59163
development in a region, the department may elect to award funds 59164
directly to a business for on-site infrastructure improvements. 59165
"Infrastructure improvements" mean improvements to water system 59166
facilities, sewer and sewage treatment facilities, electric or gas 59167
service facilities, fiber optic facilities, rail facilities, site 59168
preparation, and parking facilities. The Director of Development 59169
may recommend the funds be used in an alternative manner when 59170
deemed appropriate to meet an extraordinary economic development 59171
opportunity or need. 59172

The foregoing appropriation item 195-412, Business 59173
Development Grants, may be expended only after the submission of a 59174

request to the Controlling Board by the Department of Development 59175
outlining the planned use of the funds, and the subsequent 59176
approval of the request by the Controlling Board. 59177

The foregoing appropriation item 195-412, Business 59178
Development Grants, may be used for, but is not limited to, 59179
construction, rehabilitation, and acquisition projects for rail 59180
freight assistance as requested by the Department of 59181
Transportation. The Director of Transportation shall submit the 59182
proposed projects to the Director of Development for an evaluation 59183
of potential economic benefit. 59184

Section 38.05. FIRST FRONTIER MATCH 59185

The foregoing appropriation item 195-414, First Frontier 59186
Match, shall be used as matching funds to targeted counties for 59187
the purpose of marketing state, regional, and local 59188
characteristics that may attract economic development. "Targeted 59189
counties" mean counties that have a population of less than 59190
175,000 residents. The appropriation may be used either for 59191
marketing programs by individual targeted counties or for regional 59192
marketing campaigns that are marketing programs in which at least 59193
one targeted county is participating with one or more other 59194
targeted counties or larger counties. 59195

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES 59196

The foregoing appropriation item 195-415, Economic 59197
Development Division and Regional Offices, shall be used for the 59198
operating expenses of the Economic Development Division and the 59199
regional economic development offices and for grants for 59200
cooperative economic development ventures. 59201

Section 38.06. GOVERNOR'S OFFICE OF APPALACHIA 59202

The foregoing appropriation item 195-416, Governor's Office 59203
of Appalachia, shall be used for the administrative costs of 59204

planning and liaison activities for the Governor's Office of 59205
Appalachia. Funds not expended for planning and liaison activities 59206
may be expended for special project grants within the Appalachian 59207
Region. 59208

Of the foregoing appropriation item 195-416, Governor's 59209
Office of Appalachia, up to \$250,000 each fiscal year shall be 59210
used to match federal funds from the Appalachian Regional 59211
Commission to provide job training to impact the Appalachian 59212
Region. 59213

Of the foregoing appropriation item 195-416, Governor's 59214
Office of Appalachia, up to \$4,372,324 in each fiscal year shall 59215
be used in conjunction with other federal and state funds to 59216
provide financial assistance to projects in Ohio's Appalachian 59217
counties in order to further the goals of the Appalachian Regional 59218
Commission. Such projects and project sponsors shall meet 59219
Appalachian Regional Commission eligibility requirements. Grants 59220
shall be administered by the Department of Development. 59221

URBAN/RURAL INITIATIVE 59222

The foregoing appropriation item 195-417, Urban/Rural 59223
Initiative, shall be used to make grants in accordance with 59224
sections 122.19 to 122.22 of the Ohio Revised Code. 59225

Section 38.07. THIRD FRONTIER ACTION FUND 59226

The foregoing appropriation item 195-422, Third Frontier 59227
Action Fund, shall be used to make grants in accordance with 59228
sections 184.01 and 184.02 of the Revised Code. Prior to the 59229
release of funds from appropriation item 195-422, Third Frontier 59230
Action Fund, each grant award shall be recommended for funding by 59231
the Third Frontier Commission and obtain approval from the 59232
Controlling Board. 59233

Of the foregoing appropriation item 195-422, Third Frontier 59234

Action Fund, not more than six per cent in each fiscal year shall 59235
be used for operating expenditures in administering the program. 59236

In addition to the six per cent for operating expenditures, 59237
an additional administrative amount, not to exceed \$1,500,000 59238
within the biennium, shall be available for proposal evaluation, 59239
research and analyses, and marketing efforts deemed necessary to 59240
receive and disseminate information about science and 59241
technology-related opportunities in the state. 59242

SCIENCE AND TECHNOLOGY COLLABORATION 59243

The Department of Development shall work in close 59244
collaboration with the Board of Regents, Air Quality Development 59245
Authority, and the Third Frontier Commission in relation to 59246
appropriation items and programs listed in the following 59247
paragraph, and other technology-related appropriations and 59248
programs in the Department of Development and the Board of Regents 59249
as those agencies may designate, to ensure implementation of a 59250
coherent state strategy with respect to science and technology. 59251

Each of the following appropriations and programs: 195-401, 59252
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 59253
Third Frontier Action Fund; 898-632, Coal Research and Development 59254
Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer 59255
Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural 59256
Research and Development Center; 235-553, Dayton Area Graduate 59257
Studies Institute; 235-554, Computer Science Graduate Education; 59258
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 59259
Research and Technology Transfer Trust, shall be reviewed annually 59260
by the Third Frontier Commission with respect to its development 59261
of complementary relationships within a combined state science and 59262
technology investment portfolio and its overall contribution to 59263
the state's science and technology strategy, including the 59264
adoption of appropriately consistent criteria for: (1) the 59265
scientific merit of activities supported by the program; (2) the 59266

relevance of the program's activities to commercial opportunities 59267
in the private sector; (3) the private sector's involvement in a 59268
process that continually evaluates commercial opportunities to use 59269
the work supported by the program; and (4) the ability of the 59270
program and recipients of grant funding from the program to engage 59271
in activities that are collaborative, complementary, and efficient 59272
with respect to the expenditure of state funds. 59273

All programs listed in the preceding paragraph shall provide 59274
annual reports to the Third Frontier Commission discussing 59275
existing, planned, or possible collaborations between programs and 59276
recipients of grant funding related to technology, development, 59277
commercialization, and supporting Ohio's economic development. The 59278
annual review by the Third Frontier Commission shall be a 59279
comprehensive review of the entire state science and technology 59280
program portfolio rather than a review of individual programs. 59281

Section 38.08. INTERNATIONAL TRADE 59282

The foregoing appropriation item 195-432, International 59283
Trade, shall be used to operate and to maintain Ohio's 59284
out-of-state trade offices. 59285

The Director of Development may enter into contracts with 59286
foreign nationals to staff foreign offices. Such contracts may be 59287
paid in local currency or United States currency and shall be 59288
exempt from the provisions of section 127.16 of the Revised Code. 59289
The director also may establish foreign currency accounts in 59290
accordance with section 122.05 of the Revised Code for the payment 59291
of expenses related to the operation and maintenance of the 59292
foreign trade offices. 59293

The foregoing appropriation item 195-432, International 59294
Trade, shall be used to fund the International Trade Division and 59295
to assist Ohio manufacturers and agricultural producers in 59296
exporting to foreign countries in conjunction with the Department 59297

of Agriculture.	59298
Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.	59299 59300 59301 59302
Section 38.09. OHIO INVESTMENT IN TRAINING PROGRAM	59303
The foregoing appropriation item 195-434, Investment in Training Grants, shall be used to promote training through grants for the reimbursement of eligible training expenses.	59304 59305 59306
Section 38.09a. LOW AND MODERATE HOUSING INCOME	59307
The Director of Budget and Management shall transfer \$44,000,000 from appropriation item 195-441, Low and Moderate Income Housing, to appropriation item 195-638, Low and Moderate Income Housing Trust Fund (Fund 646). This transfer shall be made via an intrastate transfer voucher.	59308 59309 59310 59311 59312
Section 38.10. CDBG OPERATING MATCH	59313
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.	59314 59315 59316 59317 59318
STATE OPERATING MATCH	59319
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.	59320 59321 59322 59323
Section 38.11. TRAVEL AND TOURISM GRANTS	59324

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.

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; \$40,000 in each fiscal year shall be used for the Cleveland Film Commission; \$500,000 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.

Section 38.12. THIRD FRONTIER RESEARCH & COMMERCIALIZATION
GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195-905, Third Frontier Research & Commercialization General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2003, to June 30, 2005, on obligations to be issued for research and development purposes under Section 2p of Article VIII, Ohio Constitution, and implementing legislation. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

Section 38.13. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. Such an assessment shall be based on a plan submitted to and approved by the Office of Budget and Management by the first day of August of each fiscal year, and contain the characteristics of

administrative ease and uniform application.	59355
A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher.	59356 59357
GENERAL REIMBURSEMENT	59358
The foregoing appropriation item 195-636, General Reimbursements, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs.	59359 59360 59361 59362 59363 59364
Section 38.13a. TRAINING SERVICES	59365
Of the foregoing appropriation item 195-605, Federal Projects, \$400,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.	59366 59367 59368 59369 59370
Section 38.14. HEAP WEATHERIZATION	59371
Fifteen per cent of the federal funds received by the state for the Home Energy Assistance Block Grant shall be deposited in appropriation item 195-614, HEAP Weatherization (Fund 3K9), and shall be used to provide home weatherization services in the state.	59372 59373 59374 59375 59376
Of the foregoing appropriation item 195-614, HEAP Weatherization, \$200,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.	59377 59378 59379 59380 59381
STATE SPECIAL PROJECTS	59382
The foregoing appropriation item 195-639, State Special	59383

Projects, shall be used as a general account for the deposit of 59384
private-sector funds from utility companies and other 59385
miscellaneous state funds. Private-sector moneys shall be used to 59386
(1) pay the expenses of verifying the income-eligibility of HEAP 59387
applicants, (2) market economic development opportunities in the 59388
state, and (3) leverage additional federal funds. State funds 59389
shall be used to match federal housing grants for the homeless. 59390

Section 38.15. MINORITY BUSINESS ENTERPRISE LOAN 59391

All repayments from the Minority Development Financing 59392
Advisory Board loan program and the Ohio Mini-Loan Guarantee 59393
Program shall be deposited in the State Treasury to the credit of 59394
the Minority Business Enterprise Loan Fund (Fund 4W1). 59395

All operating costs of administering the Minority Business 59396
Enterprise Loan Fund shall be paid from the Minority Business 59397
Enterprise Loan Fund (Fund 4WI). 59398

MINORITY BUSINESS BONDING FUND 59399

Notwithstanding Chapters 122., 169., and 175. of the Revised 59400
Code and other provisions of Am. Sub. H.B. 283 of the 123rd 59401
General Assembly, the Director of Development may, upon the 59402
recommendation of the Minority Development Financing Advisory 59403
Board, pledge up to \$10,000,000 in the 2003-2005 biennium of 59404
unclaimed funds administered by the Director of Commerce and 59405
allocated to the Minority Business Bonding Program pursuant to 59406
section 169.05 of the Revised Code. The transfer of any cash by 59407
the Director of Budget and Management from the Department of 59408
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 59409
Development's Minority Business Bonding Fund (Fund 449) shall 59410
occur, if requested by the Director of Development, only if such 59411
funds are needed for payment of losses arising from the Minority 59412
Business Bonding Program, and only after proceeds of the initial 59413
transfer of \$2,700,000 by the Controlling Board to the Minority 59414

Business Bonding Program has been used for that purpose. Moneys 59415
transferred by the Director of Budget and Management from the 59416
Department of Commerce for this purpose may be moneys in custodial 59417
funds held by the Treasurer of State. If expenditures are required 59418
for payment of losses arising from the Minority Business Bonding 59419
Program, such expenditures shall be made from appropriation item 59420
195-623, Minority Business Bonding Contingency in the Minority 59421
Business Bonding Fund, and such amounts are appropriated. 59422

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION 59423

Investment earnings of the Minority Business Bonding Fund 59424
(Fund 449) shall be credited to the Minority Business Bonding 59425
Program Administration Fund (Fund 450). 59426

Section 38.16. ECONOMIC DEVELOPMENT FINANCING OPERATING 59427

The foregoing appropriation item 195-625, Economic 59428
Development Financing Operating, shall be used for the operating 59429
expenses of financial assistance programs authorized under Chapter 59430
166. of the Revised Code and under sections 122.43 and 122.45 of 59431
the Revised Code. 59432

VOLUME CAP ADMINISTRATION 59433

The foregoing appropriation item 195-654, Volume Cap 59434
Administration, shall be used for expenses related to the 59435
administration of the Volume Cap Program. Revenues received by the 59436
Volume Cap Administration Fund (Fund 617) shall consist of 59437
application fees, forfeited deposits, and interest earned from the 59438
custodial account held by the Treasurer of State. 59439

UNIVERSAL SERVICE FUND 59440

The foregoing appropriation item 195-659, Universal Service, 59441
shall be used to provide payments to regulated electric utility 59442
companies for low-income customers enrolled in Percentage of 59443
Income Payment Plan (PIPP) electric accounts, to fund targeted 59444

energy efficiency and customer education services to PIPP 59445
customers, and to cover the department's administrative costs 59446
related to the Universal Service Fund Programs. 59447

ENERGY EFFICIENCY REVOLVING LOAN FUND 59448

The foregoing appropriation item 195-660, Energy Efficiency 59449
Revolving Loan, shall be used to provide financial assistance to 59450
customers for eligible energy efficiency projects for residential, 59451
commercial and industrial business, local government, educational 59452
institution, nonprofit, and agriculture customers, and to pay for 59453
the program's administrative costs as provided in the Revised Code 59454
and rules adopted by the Director of Development. 59455

Section 38.17. FACILITIES ESTABLISHMENT FUND 59456

The foregoing appropriation item 195-615, Facilities 59457
Establishment (Fund 037), shall be used for the purposes of the 59458
Facilities Establishment Fund under Chapter 166. of the Revised 59459
Code. 59460

Notwithstanding Chapter 166. of the Revised Code, up to 59461
\$1,800,000 in cash per fiscal year may be transferred from the 59462
Facilities Establishment Fund (Fund 037) to the Economic 59463
Development Financing Operating Fund (Fund 451). The transfer is 59464
subject to Controlling Board approval pursuant to division (B) of 59465
section 166.03 of the Revised Code. 59466

Notwithstanding Chapter 166. of the Revised Code, up to 59467
\$20,475,000 in cash may be transferred during the biennium from 59468
the Facilities Establishment Fund (Fund 037) to the Urban 59469
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 59470
barriers to urban core redevelopment. The Director of Development 59471
shall develop program guidelines for the transfer and release of 59472
funds, including, but not limited to, the completion of all 59473
appropriate environmental assessments before state assistance is 59474

committed to a project. 59475

Notwithstanding Chapter 166. of the Revised Code, up to 59476
\$5,000,000 per fiscal year in cash may be transferred from the 59477
Facilities Establishment Fund (Fund 037) to the Rural Industrial 59478
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 59479
Board approval pursuant to section 166.03 of the Revised Code. 59480

FAMILY FARM LOAN PROGRAM 59481

Notwithstanding Chapter 166. of the Revised Code, up to 59482
\$1,500,000 in each fiscal year shall be transferred from moneys in 59483
the Facilities Establishment Fund (Fund 037) to the Family Farm 59484
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 59485
These moneys shall be used for loan guarantees. The transfer is 59486
subject to Controlling Board approval. 59487

Financial assistance from the Family Farm Loan Guarantee Fund 59488
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 59489
in accordance with sections 166.031, 901.80, 901.81, 901.82, and 59490
901.83 of the Revised Code. 59491

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 59492
exist, all outstanding balances, all loan repayments, and any 59493
other outstanding obligations shall revert to the Facilities 59494
Establishment Fund (Fund 037). 59495

RURAL DEVELOPMENT INITIATIVE FUND 59496

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall 59497
receive moneys from the Facilities Establishment Fund (Fund 037). 59498
The Director of Development may make grants from the Rural 59499
Development Initiative Fund as specified in division (A)(2) of 59500
this section to eligible applicants in Appalachian counties and in 59501
rural counties in the state that are designated as distressed 59502
pursuant to section 122.25 of the Revised Code. Preference shall 59503
be given to eligible applicants located in Appalachian counties 59504
designated as distressed by the federal Appalachian Regional 59505

Commission. The Rural Development Initiative Fund (Fund 5S8) shall 59506
cease to exist after June 30, 2007. All moneys remaining in the 59507
Fund after that date shall revert to the Facilities Establishment 59508
Fund (Fund 037). 59509

(2) The Director of Development shall make grants from the 59510
Rural Development Initiative Fund (Fund 5S8) only to eligible 59511
applicants who also qualify for and receive funding under the 59512
Rural Industrial Park Loan Program as specified in sections 122.23 59513
to 122.27 of the Revised Code. Eligible applicants shall use the 59514
grants for the purposes specified in section 122.24 of the Revised 59515
Code. All projects supported by grants from the fund are subject 59516
to Chapter 4115. of the Revised Code as specified in division (E) 59517
of section 166.02 of the Revised Code. The Director shall develop 59518
program guidelines for the transfer and release of funds. The 59519
release of grant moneys to an eligible applicant is subject to 59520
Controlling Board approval. 59521

(B) Notwithstanding Chapter 166. of the Revised Code, the 59522
Director of Budget and Management may transfer up to \$5,000,000 59523
per fiscal year in cash on an as needed basis at the request of 59524
the Director of Development from the Facilities Establishment Fund 59525
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 59526
The transfer is subject to Controlling Board approval pursuant to 59527
section 166.03 of the Revised Code. 59528

CAPITAL ACCESS LOAN PROGRAM 59529

The foregoing appropriation item 195-628, Capital Access Loan 59530
Program, shall be used for operating, program, and administrative 59531
expenses of the program. Funds of the Capital Access Loan Program 59532
shall be used to assist participating financial institutions in 59533
making program loans to eligible businesses that face barriers in 59534
accessing working capital and obtaining fixed asset financing. 59535

Notwithstanding Chapter 166. of the Revised Code, the 59536

Director of Budget and Management may transfer up to \$3,000,000 59537
per fiscal year in cash on an as needed basis at the request of 59538
the Director of Development from the Facilities Establishment Fund 59539
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 59540
transfer is subject to Controlling Board approval pursuant to 59541
section 166.03 of the Revised Code. 59542

Section 38.18. CLEAN OHIO OPERATING EXPENSES 59543

The foregoing appropriation item 195-663, Clean Ohio 59544
Operating, shall be used by the Department of Development in 59545
administering sections 122.65 to 122.658 of the Revised Code. 59546

Section 39. OBD OHIO BOARD OF DIETETICS 59547

General Services Fund Group 59548
4K9 860-609 Operating Expenses \$ 334,917 \$ 329,687 59549
TOTAL GSF General Services Fund 59550
Group \$ 334,917 \$ 329,687 59551
TOTAL ALL BUDGET FUND GROUPS \$ 334,917 \$ 329,687 59552

Section 39a. CDR COMMISSION ON DISPUTE RESOLUTION AND 59554
CONFLICT MANAGEMENT 59555

General Revenue Fund 59556
GRF 145-401 Commission on Dispute \$ 500,000 \$ 500,000 59557
Resolution/Management
TOTAL GRF General Revenue Fund \$ 500,000 \$ 500,000 59558
General Services Fund Group 59559
4B6 145-601 Gifts and Grants \$ 140,000 \$ 150,000 59560
TOTAL GSF General Services Fund \$ 140,000 \$ 150,000 59561
Group
Federal Special Revenue Fund Group 59562
3S6 145-602 Dispute Resolution: \$ 140,000 \$ 140,000 59563
Federal

TOTAL FED Federal Special Revenue	\$	140,000	\$	140,000	59564
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	780,000	\$	790,000	59565
COMMISSION ON DISPUTE RESOLUTION/MANAGEMENT					59566
The foregoing appropriation item 145-401, Commission on					59567
Dispute Resolution/Management, shall be used in each fiscal year					59568
by the Commission on Dispute Resolution and Conflict Management					59569
for the purpose of providing dispute resolution and conflict					59570
management training, consultation, and materials for state and					59571
local government, communities, school districts, and courts.					59572
 Section 40. EDU DEPARTMENT OF EDUCATION					59573
General Revenue Fund					59574
GRF 200-100 Personal Services	\$	11,110,190	\$	11,332,393	59575
GRF 200-320 Maintenance and	\$	5,066,249	\$	5,066,249	59576
Equipment					
GRF 200-408 Public Preschool	\$	19,018,551	\$	19,018,551	59577
GRF 200-410 Professional	\$	13,410,073	\$	13,410,073	59578
Development					
GRF 200-411 Family and Children	\$	3,324,750	\$	3,324,750	59579
First					
GRF 200-420 Technical Systems	\$	5,703,750	\$	5,703,750	59580
Development					
GRF 200-421 Alternative Education	\$	15,835,547	\$	15,835,547	59581
Programs					
GRF 200-422 School Management	\$	1,778,000	\$	1,778,000	59582
Assistance					
GRF 200-424 Policy Analysis	\$	592,220	\$	592,220	59583
GRF 200-425 Tech Prep Consortia	\$	2,133,213	\$	2,133,213	59584
Support					
GRF 200-426 Ohio Educational	\$	34,331,741	\$	34,331,741	59585
Computer Network					

GRF 200-427	Academic Standards	\$	9,000,592	\$	9,000,592	59586
GRF 200-431	School Improvement Initiatives	\$	10,755,625	\$	10,755,625	59587
GRF 200-433	Reading/Writing Improvement	\$	20,738,264	\$	20,738,264	59588
GRF 200-437	Student Assessment	\$	40,853,391	\$	40,853,391	59589
GRF 200-439	Accountability/Report Cards	\$	4,387,500	\$	4,387,500	59590
GRF 200-441	American Sign Language	\$	207,717	\$	207,717	59591
GRF 200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633	59592
GRF 200-445	OhioReads Admin/Volunteer Support	\$	4,500,000	\$	4,500,000	59593
GRF 200-446	Education Management Information System	\$	16,146,469	\$	16,146,469	59594
GRF 200-447	GED Testing/Adult High School	\$	1,829,106	\$	1,829,106	59595
GRF 200-448	Educator Preparation	\$	24,375	\$	24,375	59596
GRF 200-452	Teaching Success Commission Initiatives	\$	1,650,000	\$	1,650,000	59597
GRF 200-455	Community Schools	\$	4,231,842	\$	4,231,842	59598
GRF 200-500	School Finance Equity	\$	13,888,641	\$	7,671,853	59599
GRF 200-501	Base Cost Funding	\$	4,437,361,256	\$	4,291,124,539	59600
GRF 200-502	Pupil Transportation	\$	388,939,229	\$	397,960,398	59601
GRF 200-503	Bus Purchase Allowance	\$	34,399,921	\$	34,399,921	59602
GRF 200-505	School Lunch Match	\$	9,398,025	\$	9,398,025	59603
GRF 200-509	Adult Literacy Education	\$	8,774,250	\$	8,774,250	59604
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356	59605
GRF 200-513	Student Intervention Services	\$	35,040,815	\$	35,040,815	59606
GRF 200-514	Postsecondary Adult Career-Technical	\$	19,919,464	\$	19,919,464	59607

		Education				
GRF	200-520	Disadvantaged Pupil Impact Aid	\$	367,266,738	\$	367,266,738 59608
GRF	200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031 59609
GRF	200-525	Parity Aid	\$	333,890,279	\$	435,096,124 59610
GRF	200-532	Nonpublic	\$	55,803,103	\$	55,803,103 59611
		Administrative Cost Reimbursement				
GRF	200-540	Special Education Enhancements	\$	135,614,484	\$	137,936,046 59612
GRF	200-545	Career-Technical Education Enhancements	\$	16,060,407	\$	16,060,407 59613
GRF	200-546	Charge-Off Supplement	\$	45,888,802	\$	45,888,802 59614
GRF	200-558	Emergency Loan Interest Subsidy	\$	3,022,500	\$	3,022,500 59615
GRF	200-566	OhioReads Grants	\$	12,874,777	\$	12,832,272 59616
GRF	200-578	Safe and Supportive Schools	\$	3,576,348	\$	3,576,348 59617
GRF	200-901	Property Tax Allocation - Education	\$	783,350,000	\$	822,360,000 59618
GRF	200-906	Tangible Tax Exemption - Education	\$	77,810,000	\$	82,010,000 59619
TOTAL GRF		General Revenue Fund	\$	7,183,498,224	\$	7,186,982,993 59620
		General Services Fund Group				59621
138	200-606	Computer Services	\$	7,404,690	\$	7,635,949 59622
4D1	200-602	Ohio Prevention/Education Resource Center	\$	347,000	\$	347,000 59623
4L2	200-681	Teacher Certification and Licensure	\$	5,038,017	\$	5,236,517 59624
452	200-638	Miscellaneous Revenue	\$	500,000	\$	500,000 59625
5B1	200-651	Child Nutrition Services	\$	800,000	\$	800,000 59626

5H3	200-687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000	59627
596	200-656	Ohio Career Information System	\$	516,694	\$	529,761	59628
TOTAL GSF General Services							59629
Fund Group			\$	32,606,401	\$	33,049,227	59630
Federal Special Revenue Fund Group							59631
3C5	200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746	59632
3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966	59633
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500	59634
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	59635
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	59636
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	59637
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	59638
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	59639
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	59640
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	59641
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	59642
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	59643
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	59644
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	59645
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	59646
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	59647
3Y7	200-689	English Language	\$	4,872,334	\$	5,505,737	59648

		Acquisition				
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031 59649
309	200-601	Educationally	\$	22,148,769	\$	22,899,001 59650
		Disadvantaged				
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820 59651
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631 59652
368	200-614	Veterans' Training	\$	626,630	\$	655,587 59653
369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672 59654
		Federal Enhancement				
370	200-624	Education of	\$	1,933,910	\$	1,933,910 59655
		Exceptional Children				
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370 59656
		TOTAL FED Federal Special				59657
		Revenue Fund Group	\$	1,320,564,193	\$	1,414,191,626 59658
		State Special Revenue Fund Group				59659
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400 59660
4V7	200-633	Interagency Support	\$	800,000	\$	800,000 59661
454	200-610	Guidance and Testing	\$	956,761	\$	956,761 59662
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624 59663
5U2	200-685	National Education	\$	200,000	\$	200,000 59664
		Statistics				
5W2	200-663	Head Start Plus/Head	\$	101,200,000	\$	103,184,000 59665
		Start				
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910 59666
		Reimbursement				
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000 59667
		TOTAL SSR State Special Revenue				59668
		Fund Group	\$	121,796,171	\$	124,344,695 59669
		Lottery Profits Education Fund Group				59670
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300 59671
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700 59672
		Reimbursement				

TOTAL LPE Lottery Profits				59673	
Education Fund Group	\$	637,900,000	\$	637,900,000	59674
Revenue Distribution Fund Group				59675	
053 200-900 School District	\$	115,911,593	\$	115,911,593	59676
Property Tax					
Replacement					
TOTAL RDF Revenue Distribution				59677	
Fund Group	\$	115,911,593	\$	115,911,593	59678
TOTAL ALL BUDGET FUND GROUPS	\$	9,412,276,582	\$	9,512,380,134	59679

Section 40.01. PERSONAL SERVICES 59681

Of the foregoing appropriation item 200-100, Personal 59682
Services, \$1,630,181 in each fiscal year shall be used by the 59683
Department of Education to provide vocational administration 59684
matching funds pursuant to 20 U.S.C. 2311. 59685

MAINTENANCE AND EQUIPMENT 59686

Of the foregoing appropriation item 200-320, Maintenance and 59687
Equipment, up to \$25,000 may be expended in each fiscal year for 59688
State Board of Education out-of-state travel. 59689

Of the foregoing appropriation item 200-320, Maintenance and 59690
Equipment, \$692,014 in each fiscal year shall be used by the 59691
Department of Education to provide vocational administration 59692
matching funds pursuant to 20 U.S.C. 2311. 59693

Section 40.02. PUBLIC PRESCHOOL 59694

The Department of Education shall distribute the foregoing 59695
appropriation item 200-408, Public Preschool, to pay the costs of 59696
comprehensive preschool programs. As used in this section, "school 59697
district" means a city, local, exempted village, or joint 59698
vocational school district, or an educational service center. 59699

(A) In each fiscal year, up to two per cent of the total 59700

appropriation may be used by the department for program support 59701
and technical assistance; developing program capacity; and 59702
assisting programs with facilities planning, construction, 59703
renovation, or lease agreements in conjunction with the Community 59704
Development Finance Fund (CFFF). The Department shall distribute 59705
the remainder of the appropriation in each fiscal year to serve 59706
children from families earning not more than 185 per cent of the 59707
federal poverty guidelines. 59708

(B) The department shall provide an annual report to the 59709
Governor, the Speaker of the House of Representatives, the 59710
President of the Senate, the State Board of Education, Head Start 59711
grantees, and other interested parties. The report shall include: 59712

(1) The number and per cent of eligible children by county 59713
and by school district; 59714

(2) The amount of state funds allocated for continuation per 59715
school district; 59716

(3) The amount of state funds received for continuation per 59717
school district; 59718

(4) A summary of program performance on the state critical 59719
performance indicators in the public preschool program; 59720

(5) A summary of developmental progress of children 59721
participating in the state-funded public preschool program; 59722

(6) Any other data reflecting the performance of public 59723
preschool programs that the department considers pertinent. 59724

(C) For purposes of this section, "eligible child" means a 59725
child who is at least three years of age, is not eligible for 59726
kindergarten, and whose family earns not more than 185 per cent of 59727
the federal poverty guidelines. 59728

(D) The department may reallocate unobligated or unspent 59729
money to participating school districts for purposes of program 59730

expansion, improvement, or special projects to promote quality and innovation. 59731
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(E) Costs for developing and administering a preschool program may not exceed fifteen per cent of the total approved costs of the program. 59733
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All recipients of funds shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved recipient for purposes provided in the program unless, as described in division (J) of this section, a preschool program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or program performance standards. The approved recipient shall administer and use such property and funds for the purposes specified. 59736
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(F) The department shall prescribe target levels for critical performance indicators for the purpose of assessing public preschool programs. On-site reviews and follow-up visits shall be based on progress in meeting the prescribed target levels. 59747
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(G) The Department may examine a recipient's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the Head Start performance standards or exhibits below average performance as measured against the performance indicators outlined in division (F) of this section, the preschool program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the school district board of education and the appropriate grantee official. The corrective action plan shall include a schedule for 59751
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monitoring by the Department. Such monitoring may include monthly 59763
reports, inspections, a timeline for correction of deficiencies, 59764
and technical assistance to be provided by the Department or 59765
obtained by the public preschool program. The Department may 59766
withhold funding pending corrective action. If a public preschool 59767
program fails to satisfactorily complete a corrective action plan, 59768
the Department may either deny expansion funding to the program or 59769
withdraw all or part of the public preschool funding from the 59770
agency and establish a new state-funded agency through a 59771
competitive bidding process established by the Department. 59772

(H) The department shall require public preschool programs to 59773
document child progress, using research-based indicators as 59774
prescribed by the department, and report results annually. The 59775
department shall determine the dates for documenting and 59776
reporting. 59777

(I) Each school district shall develop a sliding fee scale 59778
based on family incomes in the district and shall charge families 59779
who earn more than the federal poverty guidelines for preschool. 59780

(J) If a public preschool program voluntarily waives its 59781
right for funding, or has its funding eliminated for not meeting 59782
financial standards or program performance standards, the grantee 59783
and delegate shall transfer control of title to property, 59784
equipment, and remaining supplies obtained through the program to 59785
designated grantees and return any unexpended funds to the 59786
Department along with any reports prescribed by the Department. 59787
The funding made available from a program that waives its right 59788
for funding or has its funding eliminated or reduced may be used 59789
by the Department for new grant awards or expansion grants. The 59790
Department may award new grants or expansion grants to eligible 59791
providers who apply. The eligible providers who apply must do so 59792
in accordance with the competitive bidding process established by 59793
the Department. 59794

Section 40.03. PROFESSIONAL DEVELOPMENT 59795

Of the foregoing appropriation item 200-410, Professional 59796
Development, \$5,779,625 in each fiscal year shall be used by the 59797
Department of Education to provide grants to recognize and reward 59798
teachers who became certified by the National Board for 59799
Professional Teaching Standards pursuant to section 3319.55 of the 59800
Revised Code prior to January 1, 2003. 59801

Of the foregoing appropriation item 200-410, Professional 59802
Development, up to \$7,442,358 in each fiscal year shall be 59803
allocated for entry year programs. These funds shall be used for 59804
performance assessments of beginning teachers in school districts 59805
designated as academic watch or academic emergency under section 59806
3302.03 of the Revised Code. 59807

Of the foregoing appropriation item 200-410, Professional 59808
Development, up to \$188,090 in each fiscal year shall be used to 59809
provide grants for districts to develop local 59810
knowledge/skills-based compensation systems. Each district 59811
receiving grants shall issue an annual report to the Department of 59812
Education detailing the use of the funds and the impact of the 59813
system developed by the district. 59814

Section 40.04. TECHNICAL SYSTEMS DEVELOPMENT 59815

The foregoing appropriation item 200-420, Technical Systems 59816
Development, shall be used to support the development and 59817
implementation of information technology solutions designed to 59818
improve the performance and customer service of the Department of 59819
Education. Funds may be used for personnel, maintenance, and 59820
equipment costs related to the development and implementation of 59821
these technical system projects. Implementation of these systems 59822
shall allow the Department to provide greater levels of assistance 59823
to school districts and to provide more timely information to the 59824

public, including school districts, administrators, and 59825
legislators. 59826

ALTERNATIVE EDUCATION PROGRAMS 59827

There is hereby created the Alternative Education Advisory 59828
Council, which shall consist of one representative from each of 59829
the following agencies: the Ohio Department of Education; the 59830
Department of Youth Services; the Ohio Department of Alcohol and 59831
Drug Addiction Services; the Department of Mental Health; the 59832
Office of the Governor or, at the Governor's discretion, the 59833
Office of the Lieutenant Governor; the Office of the Attorney 59834
General; and the Office of the Auditor of State. 59835

Of the foregoing appropriation item 200-421, Alternative 59836
Education Programs, not less than \$7,897,500 in each fiscal year 59837
shall be used for the renewal of successful implementation grants 59838
and for competitive matching grants to the 21 urban school 59839
districts as defined in division (O) of section 3317.02 of the 59840
Revised Code as it existed prior to July 1, 1998, and not less 59841
than \$7,863,047 in each fiscal year shall be used for the renewal 59842
of successful implementation of grants and for competitive 59843
matching grants to rural and suburban school districts for 59844
alternative educational programs for existing and new at-risk and 59845
delinquent youth. Programs shall be focused on youth in one or 59846
more of the following categories: those who have been expelled or 59847
suspended, those who have dropped out of school or who are at risk 59848
of dropping out of school, those who are habitually truant or 59849
disruptive, or those on probation or on parole from a Department 59850
of Youth Services facility. Grants shall be awarded according to 59851
the criteria established by the Alternative Education Advisory 59852
Council in 1999. Grants shall be awarded only to programs where 59853
the grant would not serve as the program's primary source of 59854
funding. These grants shall be administered by the Department of 59855
Education. 59856

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$75,000 in each fiscal year shall be used to support the Toledo Tech Academy.

SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200-422, School Management Assistance, \$351,000 in each fiscal year 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 this appropriation shall administer the development of reports,

analyses, and briefings to inform education policymakers of 59888
current trends in education practice, efficient and effective use 59889
of resources, and evaluation of programs to improve education 59890
results. The database shall be kept current at all times. These 59891
research efforts shall be used to supply information and analysis 59892
of data to the General Assembly and other state policymakers, 59893
including the Office of Budget and Management and the Legislative 59894
Service Commission. 59895

The Department of Education may use funding from this 59896
appropriation item to purchase or contract for the development of 59897
software systems or contract for policy studies that will assist 59898
in the provision and analysis of policy-related information. 59899
Funding from this appropriation item also may be used to monitor 59900
and enhance quality assurance for research-based policy analysis 59901
and program evaluation to enhance the effective use of education 59902
information to inform education policymakers. 59903

TECH PREP CONSORTIA SUPPORT 59904

The foregoing appropriation item 200-425, Tech Prep Consortia 59905
Support, shall be used by the Department of Education to support 59906
state-level activities designed to support, promote, and expand 59907
tech prep programs. Use of these funds shall include, but not be 59908
limited to, administration of grants, program evaluation, 59909
professional development, curriculum development, assessment 59910
development, program promotion, communications, and statewide 59911
coordination of tech prep consortia. 59912

OHIO EDUCATIONAL COMPUTER NETWORK 59913

The foregoing appropriation item 200-426, Ohio Educational 59914
Computer Network, shall be used by the Department of Education to 59915
maintain a system of information technology throughout Ohio and to 59916
provide technical assistance for such a system in support of the 59917
State Education Technology Plan pursuant to section 3301.07 of the 59918

Revised Code. 59919

Of the foregoing appropriation item 200-426, Ohio Educational 59920
Computer Network, up to \$18,592,763 in each fiscal year shall be 59921
used by the Department of Education to support connection of all 59922
public school buildings to the state's education network, to each 59923
other, and to the Internet. In each fiscal year the Department of 59924
Education shall use these funds to assist data acquisition sites 59925
or school districts with the operational costs associated with 59926
this connectivity. The Department of Education shall develop a 59927
formula and guidelines for the distribution of these funds to the 59928
data acquisition sites or individual school districts. As used in 59929
this section, "public school building" means a school building of 59930
any city, local, exempted village, or joint vocational school 59931
district, or any community school established under Chapter 3314. 59932
of the Revised Code, or any educational service center building 59933
used for instructional purposes, or the Ohio School for the Deaf 59934
and the Ohio School for the Blind, or high schools chartered by 59935
the Ohio Department of Youth Services and high schools operated by 59936
Ohio Department of Rehabilitation and Corrections' Ohio Central 59937
School System. 59938

Of the foregoing appropriation item 200-426, Ohio Educational 59939
Computer Network, up to \$1,884,355 in each fiscal year shall be 59940
used for the Union Catalog and InfOhio Network. 59941

The Department of Education shall use \$3,412,500 in each 59942
fiscal year to assist designated data acquisition sites with 59943
operational costs associated with the increased use of the state's 59944
education network by chartered nonpublic schools. The Department 59945
of Education shall divide the \$3,412,500 by the number of eligible 59946
chartered nonpublic schools that meet the OneNet Planning 59947
Commission's connectivity standard of a minimum of 1.5 Mb/s (T-1) 59948
connection. This calculation shall be made in the fall of every 59949
school year and the funds shall be distributed to designated data 59950

acquisition sites no later than the first day of November of every 59951
school year that the General Assembly appropriates funds for the 59952
program. 59953

The remainder of appropriation item 200-426, Ohio Educational 59954
Computer Network, shall be used to support development, 59955
maintenance, and operation of a network of uniform and compatible 59956
computer-based information and instructional systems. The 59957
technical assistance shall include, but not be restricted to, 59958
development and maintenance of adequate computer software systems 59959
to support network activities. Program funds may be used, through 59960
a formula and guidelines devised by the department, to subsidize 59961
the activities of designated data acquisition sites, as defined by 59962
State Board of Education rules, to provide school districts and 59963
chartered nonpublic schools with computer-based student and 59964
teacher instructional and administrative information services, 59965
including approved computerized financial accounting, and to 59966
ensure the effective operation of local automated administrative 59967
and instructional systems. To broaden the scope of the use of 59968
technology for education, the Department may use up to \$223,762 in 59969
each fiscal year to coordinate the activities of the computer 59970
network with other agencies funded by the department or the state. 59971
In order to improve the efficiency of network activities, the 59972
department and data acquisition sites may jointly purchase 59973
equipment, materials, and services from funds provided under this 59974
appropriation for use by the network and, when considered 59975
practical by the department, may utilize the services of 59976
appropriate state purchasing agencies. 59977

ACADEMIC STANDARDS 59978

Of the foregoing appropriation item 200-427, Academic 59979
Standards, up to \$731,250 in each fiscal year shall be used to 59980
provide funds to school districts that have one or more teachers 59981
participating in the teachers-on-loan program. 59982

The remainder of appropriation item 200-427, Academic Standards, shall be used by the Department of Education to develop and communicate to school districts academic content standards and curriculum models. The Department of Education shall communicate these standards and curricula to school districts through Internet website postings and electronic mail.

Section 40.05. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$10,505,625 in each fiscal year shall be used to provide technical assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code to develop their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance to school buildings not meeting new federal accountability measures.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$250,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

READING/WRITING IMPROVEMENT

Of the foregoing appropriation item 200-433, Reading/Writing Improvement, up to \$12,675,000 in each fiscal year shall be used for professional development in literacy for classroom teachers, administrators, and literacy specialists.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement, \$500,000 in fiscal year 2004 shall be used to continue the Waterford Early Reading Program.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement, up to \$1,000,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training

Network, to cover the cost of release time for the teacher 60013
trainers, and to provide grants to districts to implement other 60014
reading improvement programs on a pilot basis. Funds from this 60015
appropriation item also may be used to conduct evaluations of the 60016
impact and effectiveness of Reading Recovery and other reading 60017
improvement programs. 60018

The remainder of appropriation item 200-433, Reading/Writing 60019
Improvement, shall be used to support standards-based classroom 60020
reading and writing instruction and reading intervention and the 60021
design/development of standards-based literacy curriculum 60022
materials; to support literacy professional development 60023
partnerships between the Department of Education, higher education 60024
institutions, the literacy specialists project, the Ohio 60025
principals' literacy network, regional literacy teams, literacy 60026
networks, and school districts. 60027

STUDENT ASSESSMENT 60028

The foregoing appropriation item 200-437, Student Assessment, 60029
shall be used to develop, field test, print, distribute, score, 60030
and report results from the tests required under sections 60031
3301.0710 and 3301.0711 of the Revised Code and for similar 60032
purposes as required by section 3301.27 of the Revised Code. 60033

ACCOUNTABILITY/REPORT CARDS 60034

The foregoing appropriation item 200-439, 60035
Accountability/Report Cards, shall be used for the development and 60036
distribution of school report cards pursuant to section 3302.03 of 60037
the Revised Code. 60038

AMERICAN SIGN LANGUAGE 60039

Of the foregoing appropriation item 200-441, American Sign 60040
Language, up to \$136,943 in each fiscal year shall be used to 60041
implement pilot projects for the integration of American Sign 60042
Language deaf language into the kindergarten through twelfth-grade 60043

curriculum. 60044

The remainder of the appropriation shall be used by the 60045
Department of Education to provide supervision and consultation to 60046
school districts in dealing with parents of children who are deaf 60047
or hard of hearing, in integrating American Sign Language as a 60048
foreign language, and in obtaining interpreters and improving 60049
their skills. 60050

CHILD CARE LICENSING 60051

The foregoing appropriation item 200-442, Child Care 60052
Licensing, shall be used by the Department of Education to license 60053
and to inspect preschool and school-age child care programs in 60054
accordance with sections 3301.52 to 3301.59 of the Revised Code. 60055

OHIOREADS ADMIN/VOLUNTEER SUPPORT 60056

The foregoing appropriation item 200-445, OhioReads 60057
Admin/Volunteer Support, may be allocated by the OhioReads Office 60058
in the Department of Education at the direction of the OhioReads 60059
Council for volunteer coordinators in public school buildings, to 60060
educational service centers for costs associated with volunteer 60061
coordination, for background checks for volunteers, to evaluate 60062
the OhioReads Program, and for operating expenses associated with 60063
administering the program. 60064

Section 40.06. EDUCATION MANAGEMENT INFORMATION SYSTEM 60065

The foregoing appropriation item 200-446, Education 60066
Management Information System, shall be used by the Department of 60067
Education to improve the Education Management Information System 60068
(EMIS). 60069

Of the foregoing appropriation item 200-446, Education 60070
Management Information System, up to \$1,295,857 in each fiscal 60071
year shall be distributed to designated data acquisition sites for 60072
costs relating to processing, storing, and transferring data for 60073

the effective operation of the EMIS. These costs may include, but 60074
are not limited to, personnel, hardware, software development, 60075
communications connectivity, professional development, and support 60076
services, and to provide services to participate in the State 60077
Education Technology Plan pursuant to section 3301.07 of the 60078
Revised Code. 60079

Of the foregoing appropriation item 200-446, Education 60080
Management Information System, up to \$8,055,189 in each fiscal 60081
year shall be distributed on a per-pupil basis to school 60082
districts, community schools established under Chapter 3314. of 60083
the Revised Code, education service centers, joint vocational 60084
school districts, and any other education entity that reports data 60085
through EMIS. From this funding, each school district or community 60086
school established under Chapter 3314. of the Revised Code with 60087
enrollment greater than 100 students and each vocational school 60088
district shall receive a minimum of \$5,000 in each fiscal year. 60089
Each school district or community school established under Chapter 60090
3314. of the Revised Code with enrollment between one and one 60091
hundred and each education service center and each county board of 60092
MR/DD that submits data through EMIS shall receive \$3,000 in each 60093
fiscal year. This subsidy shall be used for costs relating to 60094
reporting, processing, storing, transferring, and exchanging data 60095
necessary to meet requirements of the Department of Education's 60096
data system. 60097

GED TESTING/ADULT HIGH SCHOOL 60098

The foregoing appropriation item 200-447, GED Testing/Adult 60099
High School, shall be used to provide General Educational 60100
Development (GED) testing at no cost to applicants, pursuant to 60101
rules adopted by the State Board of Education. The Department of 60102
Education shall reimburse school districts and community schools, 60103
created in accordance with Chapter 3314. of the Revised Code, for 60104
a portion of the costs incurred in providing summer instructional 60105

or intervention services to students who have not graduated due to 60106
their inability to pass one or more parts of the state's ninth 60107
grade proficiency test. School districts shall also provide such 60108
services to students who are residents of the district pursuant to 60109
section 3313.64 of the Revised Code, but who are enrolled in 60110
chartered, nonpublic schools. The services shall be provided in 60111
the public school, in nonpublic schools, in public centers, or in 60112
mobile units located on or off the nonpublic school premises. No 60113
school district shall provide summer instructional or intervention 60114
services to nonpublic school students as authorized by this 60115
section unless such services are available to students attending 60116
the public schools within the district. No school district shall 60117
provide services for use in religious courses, devotional 60118
exercises, religious training, or any other religious activity. 60119
Chartered, nonpublic schools shall pay for any unreimbursed costs 60120
incurred by school districts for providing summer instruction or 60121
intervention services to students enrolled in chartered, nonpublic 60122
schools. School districts may provide these services to students 60123
directly or contract with postsecondary or nonprofit 60124
community-based institutions in providing instruction. The 60125
appropriation also shall be used for state reimbursement to school 60126
districts for adult high school continuing education programs 60127
pursuant to section 3313.531 of the Revised Code or for costs 60128
associated with awarding adult high school diplomas under section 60129
3313.611 of the Revised Code. 60130

EDUCATOR PREPARATION 60131

The foregoing appropriation item 200-448, Educator 60132
Preparation, shall be used by the Ohio Teacher Education and 60133
Certification Commission to carry out the responsibilities of the 60134
21-member Ohio Teacher Education and Certification Advisory 60135
Commission. The advisory commission is charged by the State Board 60136
of Education with considering all matters related to educator 60137

preparation and licensure, including standards for educator 60138
preparation and licensure, approval of institutions and programs, 60139
and recommending decisions to the State Board of Education. 60140

TEACHING SUCCESS COMMISSION INITIATIVES 60141

The foregoing appropriation item 200-452, Teaching Success 60142
Commission Initiatives, shall be used by the Department of 60143
Education to support initiatives recommended by the Governor's 60144
Commission on Teaching Success. 60145

COMMUNITY SCHOOLS 60146

Of the foregoing appropriation item 200-455, Community 60147
Schools, up to \$1,308,661 in each fiscal year may be used by the 60148
Department of Education for additional services and 60149
responsibilities under section 3314.11 of the Revised Code. 60150

Of the foregoing appropriation item 200-455, Community 60151
Schools, up to \$250,000 in each fiscal year may be used by the 60152
Department of Education for developing and conducting training 60153
sessions for sponsors and prospective sponsors of community 60154
schools as prescribed in division (A)(1) of section 3314.015 of 60155
the Revised Code. In developing such training sessions, the 60156
Department shall collect and disseminate examples of best 60157
practices used by sponsors of independent charter schools in Ohio 60158
and other states. 60159

The remaining appropriation may be used by the Department of 60160
Education to make grants of up to \$50,000 to each proposing group 60161
with a preliminary agreement obtained under division (C)(2) of 60162
section 3314.02 of the Revised Code in order to defray planning 60163
and initial start-up costs. In the first year of operation of a 60164
community school, the Department of Education may make a grant of 60165
not more than \$100,000 to the governing authority of the school to 60166
partially defray additional start-up costs. The amount of the 60167
grant shall be based on a thorough examination of the needs of the 60168

community school. The Department of Education shall not utilize 60169
moneys received under this section for any other purpose other 60170
than those specified under this section. 60171

A community school awarded start-up grants from appropriation 60172
item 200-613, Public Charter Schools (Fund 3T4), shall not be 60173
eligible for grants under this section. 60174

Section 40.07. SCHOOL FINANCE EQUITY 60175

The foregoing appropriation item 200-500, School Finance 60176
Equity, shall be distributed to school districts based on the 60177
formula specified in section 3317.0213 of the Revised Code. 60178

Section 40.08. BASE COST FUNDING 60179

The foregoing appropriation item 200-501, Base Cost Funding, 60180
includes \$90,000,000 in each fiscal year for the state education 60181
aid offset due to the change in public utility valuation as a 60182
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 60183
General Assembly. This amount represents the total state education 60184
aid offset due to the valuation change for school districts and 60185
joint vocational school districts from all relevant appropriation 60186
line item sources. If it is determined that the state education 60187
aid offset is more than \$90,000,000, the Controlling Board may 60188
increase the appropriation for appropriation item 200-501, Base 60189
Cost Funding, by the difference amount if presented with such a 60190
request from the Department of Education. The appropriation 60191
increase, if any, is hereby appropriated. If it is determined that 60192
the state education aid offset is less than \$90,000,000, the 60193
Director of Budget and Management shall then reduce the 60194
appropriation for appropriation item 200-501, Base Cost Funding, 60195
by the difference amount and notify the Controlling Board of this 60196
action. The appropriation decrease determined by the Director of 60197
Budget and Management, if any, is hereby approved, and 60198

appropriations are hereby reduced by the amount determined. 60199

Of the foregoing appropriation item 200-501, Base Cost 60200
Funding, up to \$425,000 shall be expended in each fiscal year for 60201
court payments pursuant to section 2151.357 of the Revised Code; 60202
an amount shall be available in each fiscal year for the cost of 60203
reappraisal guarantee pursuant to section 3317.04 of the Revised 60204
Code; an amount shall be available in each fiscal year to fund up 60205
to 225 full-time equivalent approved GRADS teacher grants pursuant 60206
to division (R) of section 3317.024 of the Revised Code; an amount 60207
shall be available in each fiscal year to make payments to school 60208
districts pursuant to division (A)(2) of section 3317.022 of the 60209
Revised Code; an amount shall be available in each fiscal year to 60210
make payments to school districts pursuant to division (F) of 60211
section 3317.022 of the Revised Code; an amount shall be available 60212
in each fiscal year to make payments to school districts pursuant 60213
to division (C) of section 3317.0212 of the Revised Code; and up 60214
to \$15,000,000 in each fiscal year shall be reserved for payments 60215
pursuant to sections 3317.026, 3317.027, and 3317.028 of the 60216
Revised Code except that the Controlling Board may increase the 60217
\$15,000,000 amount if presented with such a request from the 60218
Department of Education. Of the foregoing appropriation item 60219
200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year 60220
shall be used to provide additional state aid to school districts 60221
for special education students pursuant to division (C)(3) of 60222
section 3317.022 of the Revised Code; up to \$2,000,000 in each 60223
fiscal year shall be reserved for Youth Services tuition payments 60224
pursuant to section 3317.024 of the Revised Code; and up to 60225
\$52,000,000 in each fiscal year shall be reserved to fund the 60226
state reimbursement of educational service centers pursuant to 60227
section 3317.11 of the Revised Code. An amount shall be available 60228
for special education weighted funding pursuant to division (C)(1) 60229
of section 3317.022 and division (D)(1) of section 3317.16 of the 60230
Revised Code. 60231

Of the foregoing appropriation item 200-501, Base Cost 60232
Funding, up to \$15,000,000 in fiscal year 2005 shall be used by 60233
the Department of Education for the Enhanced Urban Attendance 60234
Improvement Initiative in Big Eight districts as defined in 60235
section 3314.02 of the Revised Code. Funds shall be distributed 60236
pursuant to the section of this act entitled "THE ENHANCED URBAN 60237
ATTENDANCE IMPROVEMENT INITIATIVE." 60238

Of the foregoing appropriation item 200-501, Base Cost 60239
Funding, an amount shall be available in fiscal year 2005 to be 60240
used by the Department of Education for transitional aid for 60241
school districts. Funds shall be distributed pursuant to the 60242
section of this act entitled "TRANSITIONAL AID FOR FISCAL YEAR 60243
2005." 60244

Of the foregoing appropriation item 200-501, Base Cost 60245
Funding, up to \$1,000,000 in each fiscal year shall be used by the 60246
Department of Education for a pilot program to pay for educational 60247
services for youth who have been assigned by a juvenile court or 60248
other authorized agency to any of the facilities described in 60249
division (A) of the section titled "Private Treatment Facility 60250
Pilot Project." 60251

The remaining portion of appropriation item 200-501, Base 60252
Cost Funding, shall be expended for the public schools of city, 60253
local, exempted village, and joint vocational school districts, 60254
including base cost funding, special education speech service 60255
enhancement funding, career-technical education weight funding, 60256
career-technical education associated service funding, guarantee 60257
funding, and teacher training and experience funding pursuant to 60258
sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised 60259
Code. 60260

Appropriation items 200-500, School Finance Equity, 200-501, 60261
Base Cost Funding, 200-502, Pupil Transportation, 200-520, 60262

Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 60263
200-525, Parity Aid, and 200-546, Charge-Off Supplement, other 60264
than specific set-asides, are collectively used in fiscal year 60265
2004 to pay state formula aid obligations for school districts and 60266
joint vocational school districts pursuant to Chapter 3317. of the 60267
Revised Code. The first priority of these appropriation items, 60268
with the exception of specific set-asides, is to fund state 60269
formula aid obligations under Chapter 3317. of the Revised Code. 60270
It may be necessary to reallocate funds among these appropriation 60271
items in order to meet state formula aid obligations. If it is 60272
determined that it is necessary to transfer funds among these 60273
appropriation items to meet state formula aid obligations, the 60274
Department of Education shall seek approval from the Controlling 60275
Board to transfer funds among these appropriation items. 60276

Section 40.09. PUPIL TRANSPORTATION 60277

Of the foregoing appropriation item 200-502, Pupil 60278
Transportation, up to \$822,400 in each fiscal year may be used by 60279
the Department of Education for training prospective and 60280
experienced school bus drivers in accordance with training 60281
programs prescribed by the Department. Up to \$56,975,910 in each 60282
fiscal year may be used by the Department of Education for special 60283
education transportation reimbursements to school districts and 60284
county MR/DD boards for transportation operating costs as provided 60285
in division (M) of section 3317.024 of the Revised Code. The 60286
remainder of appropriation item 200-502, Pupil Transportation, 60287
shall be used for the state reimbursement of public school 60288
districts' costs in transporting pupils to and from the school 60289
they attend in accordance with the district's policy, State Board 60290
of Education standards, and the Revised Code. 60291

BUS PURCHASE ALLOWANCE 60292

The foregoing appropriation item 200-503, Bus Purchase 60293

Allowance, shall be distributed to school districts, educational 60294
service centers, and county MR/DD boards pursuant to rules adopted 60295
under section 3317.07 of the Revised Code. Up to 28 per cent of 60296
the amount appropriated may be used to reimburse school districts 60297
and educational service centers for the purchase of buses to 60298
transport handicapped and nonpublic school students and to county 60299
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 60300
for the Blind for the purchase of buses to transport handicapped 60301
students. 60302

SCHOOL LUNCH MATCH 60303

The foregoing appropriation item 200-505, School Lunch Match, 60304
shall be used to provide matching funds to obtain federal funds 60305
for the school lunch program. 60306

Section 40.10. ADULT LITERACY EDUCATION 60307

The foregoing appropriation item 200-509, Adult Literacy 60308
Education, shall be used to support adult basic and literacy 60309
education instructional programs and the State Literacy Resource 60310
Center Program. 60311

Of the foregoing appropriation item 200-509, Adult Literacy 60312
Education, up to \$519,188 in each fiscal year shall be used for 60313
the support and operation of the State Literacy Resource Center. 60314

Of the foregoing appropriation item 200-509, Adult Literacy 60315
Education, \$146,250 in each fiscal year shall be used to support 60316
initiatives for English as a second language programs in 60317
combination with citizenship. Funding shall be provided to 60318
organizations that received such funds during fiscal year 2003 60319
from appropriation item 200-570, School Improvement Incentive 60320
Grants. 60321

The remainder of the appropriation shall be used to continue 60322
to satisfy the state match and maintenance of effort requirements 60323

for the support and operation of the Department of 60324
Education-administered instructional grant program for adult basic 60325
and literacy education in accordance with the department's state 60326
plan for adult basic and literacy education as approved by the 60327
State Board of Education and the Secretary of the United States 60328
Department of Education. 60329

AUXILIARY SERVICES 60330

The foregoing appropriation item 200-511, Auxiliary Services, 60331
shall be used by the Department of Education for the purpose of 60332
implementing section 3317.06 of the Revised Code. Of the 60333
appropriation, up to \$1,462,500 in each fiscal year may be used 60334
for payment of the Post-Secondary Enrollment Options Program for 60335
nonpublic students pursuant to section 3365.10 of the Revised 60336
Code. 60337

STUDENT INTERVENTION SERVICES 60338

The foregoing appropriation item 200-513, Student 60339
Intervention Services, shall be used to assist districts providing 60340
the intervention services specified in section 3313.608 of the 60341
Revised Code. The Department of Education shall establish 60342
guidelines for the use and distribution of these moneys. School 60343
districts receiving funds from this appropriation shall report to 60344
the Department of Education on how funds were used. 60345

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 60346

The foregoing appropriation item 200-514, Postsecondary Adult 60347
Career-Technical Education, shall be used by the State Board of 60348
Education to provide postsecondary adult career-technical 60349
education under sections 3313.52 and 3313.53 of the Revised Code. 60350

DISADVANTAGED PUPIL IMPACT AID 60351

Notwithstanding the distribution formula outlined in section 60352
3317.029 of the Revised Code, each school district shall receive 60353

an additional two per cent in Disadvantaged Pupil Impact Aid 60354
(DPIA) funding in fiscal year 2004 over what was received in 60355
fiscal year 2003 unless the district receives DPIA funding from 60356
the DPIA guarantee provision pursuant to division (B) of section 60357
3317.029 of the Revised Code. For such a district, its DPIA 60358
funding in fiscal year 2004 shall equal the amount of DPIA funding 60359
the district received in fiscal year 2003. 60360

Notwithstanding the distribution formula outlined in section 60361
3317.029 of the Revised Code, each school district shall receive 60362
an additional two per cent in DPIA funding in fiscal year 2005 60363
over what was received in fiscal year 2004 unless the district 60364
receives DPIA funding from the DPIA guarantee provision pursuant 60365
to division (B) of section 3317.029 of the Revised Code. For such 60366
a district, its DPIA funding in fiscal year 2005 shall equal the 60367
amount of DPIA funding the district received in fiscal year 2004. 60368

School districts must continue to comply with all expenditure 60369
guidelines and restrictions outlined in divisions (F), (G), (I), 60370
and (K) of section 3317.029 of the Revised Code by assuming a two 60371
per cent increase in funds for each program outlined in divisions 60372
(C), (D), and (E) of section 3317.029 of the Revised Code and by 60373
assuming a DPIA index equivalent to the index calculated in fiscal 60374
year 2003. 60375

The Department of Education shall pay all-day, everyday 60376
kindergarten funding to all school districts in each fiscal year 60377
that qualified for and provided the service in fiscal year 2003 60378
pursuant to section 3317.029 of the Revised Code. School districts 60379
and community schools that did not have a DPIA allocation in 60380
fiscal year 2003 shall not receive an allocation in fiscal year 60381
2004 or fiscal year 2005. 60382

Of the foregoing appropriation item 200-520, Disadvantaged 60383
Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be 60384
used for school breakfast programs. Of this amount, up to 60385

\$1,000,000 shall be used in each fiscal year by the Department of 60386
Education for the purpose of increasing participation in child 60387
nutrition programs, particularly school breakfast and summer 60388
meals. The Department shall collaborate with the Children's Hunger 60389
Alliance in the outreach effort. The remainder of the 60390
appropriation shall be used to partially reimburse school 60391
buildings within school districts that are required to have a 60392
school breakfast program pursuant to section 3313.813 of the 60393
Revised Code, at a rate decided by the Department. 60394

Of the portion of the funds distributed to the Cleveland 60395
Municipal School District under this section, up to \$11,901,887 in 60396
each fiscal year shall be used to operate the school choice 60397
program in the Cleveland Municipal School District pursuant to 60398
sections 3313.974 to 3313.979 of the Revised Code. 60399

Section 40.11. GIFTED PUPIL PROGRAM 60400

The foregoing appropriation item 200-521, Gifted Pupil 60401
Program, shall be used for gifted education units not to exceed 60402
1,110 in each fiscal year pursuant to division (P) of section 60403
3317.024 and division (F) of section 3317.05 of the Revised Code. 60404

Of the foregoing appropriation item 200-521, Gifted Pupil 60405
Program, up to \$5,000,000 each in fiscal year may be used as an 60406
additional supplement for identifying gifted students pursuant to 60407
Chapter 3324. of the Revised Code. 60408

Of the foregoing appropriation item 200-521, Gifted Pupil 60409
Program, the Department of Education may expend up to \$1,000,000 60410
in each fiscal year for the Summer Honors Institute for gifted 60411
freshman and sophomore high school students. Up to \$600,000 in 60412
each fiscal year shall be used for research and demonstration 60413
projects. The Department of Education shall research and evaluate 60414
the effectiveness of gifted education programs in Ohio. Up to 60415
\$70,000 in each fiscal year shall be used for the Ohio Summer 60416

School for the Gifted (Martin Essex Program). 60417

Section 40.12. PARITY AID 60418

The foregoing appropriation item 200-525, Parity Aid, shall 60419
be distributed to school districts based on the formulas specified 60420
in section 3317.0217 of the Revised Code. 60421

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 60422

The foregoing appropriation item 200-532, Nonpublic 60423
Administrative Cost Reimbursement, shall be used by the Department 60424
of Education for the purpose of implementing section 3317.063 of 60425
the Revised Code. 60426

Section 40.13. SPECIAL EDUCATION ENHANCEMENTS 60427

Of the foregoing appropriation item 200-540, Special 60428
Education Enhancements, up to \$44,204,000 in fiscal year 2004 and 60429
up to \$45,441,712 in fiscal year 2005 shall be used to fund 60430
special education and related services at county boards of mental 60431
retardation and developmental disabilities for eligible students 60432
under section 3317.20 of the Revised Code. Up to \$2,452,125 shall 60433
be used in each fiscal year to fund special education classroom 60434
and related services units at institutions. 60435

Of the foregoing appropriation item 200-540, Special 60436
Education Enhancements, up to \$2,906,875 in each fiscal year shall 60437
be used for home instruction for children with disabilities; up to 60438
\$1,462,500 in each fiscal year shall be used for parent mentoring 60439
programs; and up to \$2,783,396 in each fiscal year may be used for 60440
school psychology interns. 60441

Of the foregoing appropriation item 200-540, Special 60442
Education Enhancements, \$3,406,090 in each fiscal year shall be 60443
used by the Department of Education to assist school districts in 60444
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 60445

3301-51-04 of the Administrative Code. 60446

Of the foregoing appropriation item 200-540, Special 60447
Education Enhancements, \$77,384,498 in each fiscal year shall be 60448
distributed by the Department of Education to county boards of 60449
mental retardation and developmental disabilities, educational 60450
service centers, and school districts for preschool special 60451
education units and preschool supervisory units in accordance with 60452
section 3317.161 of the Revised Code. The department may reimburse 60453
county boards of mental retardation and developmental 60454
disabilities, educational service centers, and school districts 60455
for related services as defined in rule 3301-31-05 of the 60456
Administrative Code, for preschool occupational and physical 60457
therapy services provided by a physical therapy assistant and 60458
certified occupational therapy assistant, and for an instructional 60459
assistant. To the greatest extent possible, the Department of 60460
Education shall allocate these units to school districts and 60461
educational service centers. The Controlling Board may approve the 60462
transfer of unallocated funds from appropriation item 200-501, 60463
Base Cost Funding, to appropriation item 200-540, Special 60464
Education Enhancements, to fully fund existing units as necessary 60465
or to fully fund additional units. The Controlling Board may 60466
approve the transfer of unallocated funds from appropriation item 60467
200-540, Special Education Enhancements, to appropriation item 60468
200-501, Base Cost Funding, to fully fund the special education 60469
weight cost funding. 60470

The Department of Education shall require school districts, 60471
educational service centers, and county MR/DD boards serving 60472
preschool children with disabilities to document child progress 60473
using research-based indicators prescribed by the Department and 60474
report results annually. The reporting dates and methodology shall 60475
be determined by the Department. 60476

Of the foregoing appropriation item 200-540, Special 60477

Education Enhancements, \$315,000 in each fiscal year shall be 60478
expended to conduct a demonstration project involving language and 60479
literacy intervention teams supporting student acquisition of 60480
language and literacy skills. The demonstration project shall 60481
demonstrate improvement of language and literacy skills of at-risk 60482
learners under the instruction of certified speech pathologists 60483
and educators. Baseline data shall be collected and comparison 60484
data for fiscal year 2004 and fiscal year 2005 shall be collected 60485
and reported to the Governor, Ohio Reads Council, Department of 60486
Education, and the General Assembly. 60487

Of the foregoing appropriation item 200-540, Special 60488
Education Enhancements, up to \$500,000 in each fiscal year shall 60489
be used for the Research-Based Reading Mentoring Program; and up 60490
to \$200,000 in each fiscal year shall be used for the Language and 60491
Literacy Intervention Program. 60492

Section 40.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 60493

Of the foregoing appropriation item 200-545, Career-Technical 60494
Education Enhancements, up to \$2,576,107 in each fiscal year shall 60495
be used to fund career-technical education units at institutions. 60496
Up to \$3,500,000 in each fiscal year shall be used to fund the 60497
Jobs for Ohio Graduates (JOG) program. 60498

Of the foregoing appropriation item 200-545, Career-Technical 60499
Education Enhancements, up to \$2,925,000 in each fiscal year shall 60500
be used by the Department of Education to fund competitive grants 60501
to tech prep consortia that expand the number of students enrolled 60502
in tech prep programs. These grant funds shall be used to directly 60503
support expanded tech prep programs, including equipment, provided 60504
to students enrolled in school districts, including joint 60505
vocational school districts, and affiliated higher education 60506
institutions. 60507

If federal funds for career-technical education cannot be 60508

used for local school district leadership without being matched by 60509
state funds, then an amount as determined by the Superintendent of 60510
Public Instruction shall be made available from state funds 60511
appropriated for career-technical education. If any state funds 60512
are used for this purpose, federal funds in an equal amount shall 60513
be distributed for career-technical education in accordance with 60514
authorization of the state plan for career-technical education for 60515
Ohio as approved by the Secretary of the United States Department 60516
of Education. 60517

Of the foregoing appropriation item 200-545, Career-Technical 60518
Education Enhancements, \$1,462,500 in each fiscal year shall be 60519
used to provide an amount to each eligible school district for the 60520
replacement or updating of equipment essential for the instruction 60521
of students in job skills taught as part of a career-technical 60522
program or programs approved for such instruction by the State 60523
Board of Education. School districts replacing or updating 60524
career-technical education equipment may purchase or lease such 60525
equipment. The Department of Education shall review and approve 60526
all equipment requests and may allot appropriated funds to 60527
eligible school districts on the basis of the number of full-time 60528
equivalent workforce development teachers in all eligible 60529
districts making application for funds. 60530

The State Board of Education may adopt standards of need for 60531
equipment allocation. Pursuant to the adoption of any such 60532
standards of need by the State Board of Education, appropriated 60533
funds may be allotted to eligible districts according to such 60534
standards. Equipment funds allotted under either process shall be 60535
provided to a school district on a 30, 40, or 50 per cent of cost 60536
on the basis of a district career-technical priority index rating 60537
developed by the Department of Education for all districts. The 60538
career-technical priority index shall give preference to districts 60539
with a large percentage of disadvantaged students and shall 60540

include other socio-economic factors as determined by the State Board of Education. 60541
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Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,400,000 in each fiscal year 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. 60543
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Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$2,400,000 in each fiscal year shall be used for K-12 career development. 60553
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Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$496,800 in each fiscal year 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. 60556
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Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, \$300,000 in each fiscal year shall be used by the Department of Education to establish the Voc-Ag 5th Quarter Pilot Project. The project shall enable students in agricultural programs to enroll in a fifth quarter of instruction. The fifth quarter concept is based on the long-standing and successful agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall establish rules governing eligibility criteria and the reporting process for the project that must include the following: (1) a school is required to hire 60562
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a certified teacher for the fifth quarter, (2) a school must have 60573
a curriculum for the fifth quarter that is approved by the 60574
Department of Education, (3) students must earn credit for the 60575
agricultural experience, (4) the program must be approved by the 60576
school district's superintendent, and (5) the program must be in 60577
existence on the effective date of this section. The Department of 60578
Education shall fund as many programs as possible given the 60579
\$300,000 set aside. The Department of Education shall report 60580
students' performance results under the project to the General 60581
Assembly not later than December 31, 2004. 60582

Section 40.15. CHARGE-OFF SUPPLEMENT 60583

The foregoing appropriation item 200-546, Charge-Off 60584
Supplement, shall be used by the Department of Education to make 60585
payments pursuant to section 3317.0216 of the Revised Code. 60586

EMERGENCY LOAN INTEREST SUBSIDY 60587

Of the foregoing appropriation item 200-558, Emergency Loan 60588
Interest Subsidy, \$50,000 in each fiscal year shall be used to 60589
support LEAF. 60590

The remainder of the foregoing appropriation item 200-558, 60591
Emergency Loan Interest Subsidy, shall be used to provide a 60592
subsidy to school districts receiving emergency school loans 60593
pursuant to section 3313.484 of the Revised Code. The subsidy 60594
shall be used to pay these districts the difference between the 60595
amount of interest the district is paying on an emergency loan, 60596
and the interest that the district would have paid if the interest 60597
rate on the loan had been two per cent. 60598

Section 40.16. OHIOREADS GRANTS 60599

The foregoing appropriation item 200-566, OhioReads Grants, 60600
shall be disbursed by the OhioReads Office in the Department of 60601
Education at the direction of the OhioReads Council to provide 60602

grants to public schools in city, local, and exempted village 60603
school districts; community schools; and educational service 60604
centers serving kindergarten through fourth grade students to 60605
support local reading literacy initiatives including reading 60606
programs, materials, professional development, tutoring, tutor 60607
recruitment and training, and parental involvement. 60608

Grants awarded by the OhioReads Council are intended to 60609
improve reading outcomes, especially on reading proficiency tests. 60610

SAFE AND SUPPORTIVE SCHOOLS 60611

Of the foregoing appropriation item 200-578, Safe and 60612
Supportive Schools, up to \$224,250 in each fiscal year shall be 60613
used to fund a safe school center to provide resources for parents 60614
and for school and law enforcement personnel. 60615

Of the foregoing appropriation item 200-578, Safe and 60616
Supportive Schools, up to \$20,000 in each fiscal year may be used 60617
by schools for the Eddie Eagle Gun Safety Pilot Program. School 60618
districts wishing to participate in the pilot program shall apply 60619
to the Department of Education under guidelines established by the 60620
Superintendent of Public Instruction. 60621

The remainder of the appropriation shall be distributed based 60622
on guidelines developed by the Department of Education to enhance 60623
school safety. The guidelines shall provide a list of 60624
research-based best practices and programs from which local 60625
grantees shall select based on local needs. These practices shall 60626
include, but not be limited to, school resource officers and safe 60627
and drug free school coordinators, a safe school help line, and 60628
social-emotional development programs. 60629

Section 40.17. PROPERTY TAX ALLOCATION - EDUCATION 60630

The Superintendent of Public Instruction shall not request, 60631
and the Controlling Board shall not approve, the transfer of funds 60632

from appropriation item 200-901, Property Tax Allocation - 60633
Education, to any other appropriation item. 60634

The appropriation item 200-901, Property Tax Allocation - 60635
Education, is appropriated to pay for the state's costs incurred 60636
due to the homestead exemption and the property tax rollback. In 60637
cooperation with the Department of Taxation, the Department of 60638
Education shall distribute these funds directly to the appropriate 60639
school districts of the state, notwithstanding sections 321.24 and 60640
323.156 of the Revised Code, which provide for payment of the 60641
homestead exemption and property tax rollback by the Tax 60642
Commissioner to the appropriate county treasurer and the 60643
subsequent redistribution of these funds to the appropriate local 60644
taxing districts by the county auditor. 60645

Appropriation item 200-906, Tangible Tax Exemption - 60646
Education, is appropriated to pay for the state's costs incurred 60647
due to the tangible personal property tax exemption required by 60648
division (C)(3) of section 5709.01 of the Revised Code. In 60649
cooperation with the Department of Taxation, the Department of 60650
Education shall distribute to each county treasurer the total 60651
amount certified by the county treasurer pursuant to section 60652
319.311 of the Revised Code, for all school districts located in 60653
the county, notwithstanding the provision in section 319.311 of 60654
the Revised Code which provides for payment of the \$10,000 60655
tangible personal property tax exemption by the Tax Commissioner 60656
to the appropriate county treasurer for all local taxing districts 60657
located in the county. Pursuant to division (G) of section 321.24 60658
of the Revised Code, the county auditor shall distribute the 60659
amount paid by the Department of Education among the appropriate 60660
school districts. 60661

Upon receipt of these amounts, each school district shall 60662
distribute the amount among the proper funds as if it had been 60663
paid as real or tangible personal property taxes. Payments for the 60664

costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and 200-906, Tangible Tax Exemption - Education, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

Section 40.18. TEACHER CERTIFICATION AND LICENSURE

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

SCHOOL DISTRICT SOLVENCY ASSISTANCE

Of the foregoing appropriation item 200-687, School District Solvency Assistance, \$9,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$9,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent pursuant to section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H3).

Section 40.19. HEAD START PLUS/HEAD START 60696

The foregoing appropriation item 200-663, Head Start 60697
Plus/Head Start, shall be used to reimburse Head Start Plus/Head 60698
Start programs for services to children. The Department of 60699
Education shall administer the Head Start Plus/Head Start programs 60700
in accordance with an interagency agreement between the 60701
Departments of Education and Job and Family Services. Head Start 60702
Plus/Head Start providers shall meet all requirements as outlined 60703
in section 3301.311 of the Revised Code. The Department of 60704
Education shall adopt policies and procedures to establish a 60705
procedure for approving Head Start Plus/Head Start agencies. Up to 60706
\$2,000,000 in each fiscal year may be used by the Department of 60707
Education to provide program support and technical assistance. 60708

Of the foregoing appropriation item 200-663, Head Start 60709
Plus/Head Start, up to \$80,000,000 in fiscal year 2004 and up to 60710
\$81,600,000 in fiscal year 2005 shall be used to support the Head 60711
Start Plus initiative. Head Start Plus shall provide up to 10,000 60712
slots of full-day, full-year programming for children at least 60713
three years of age and not kindergarten age eligible. The program 60714
shall meet the child care needs of low-income families who meet 60715
eligibility requirements established in rules and administrative 60716
orders adopted by the Ohio Department of Job and Family Services 60717
and provide early education and comprehensive services as provided 60718
through the Head Start program before the enactment of this act. 60719

Of the foregoing appropriation item 200-663, Head Start 60720
Plus/Head Start, up to \$19,200,000 in fiscal year 2004 and up to 60721
\$19,584,000 in fiscal year 2005 shall be used to support up to 60722
4,000 slots of traditional partial-day, partial-year Head Start 60723
services. 60724

The Department of Education shall adopt rules in accordance 60725
with Chapter 119. of the Revised Code to establish standards for 60726

the purpose of assessing Head Start Plus/Head Start agencies and 60727
contract compliance. The Department of Education shall require 60728
Head Start Plus/Head Start providers to document child progress 60729
using research-based indicators as prescribed by the department 60730
and report results annually. 60731

The Department of Education shall provide an annual report to 60732
the Governor, the Speaker of the House of Representatives, the 60733
President of the Senate, the State Board of Education, Head Start 60734
Plus/Head Start providers, and other interested parties regarding 60735
the Head Start Plus/Head Start program and performance indicators 60736
as outlined by the Department of Education. 60737

AUXILIARY SERVICES REIMBURSEMENT 60738

Notwithstanding section 3317.064 of the Revised Code, if the 60739
unobligated cash balance is sufficient, the Treasurer of State 60740
shall transfer \$1,500,000 in fiscal year 2004 within thirty days 60741
after the effective date of this section and \$1,500,000 in fiscal 60742
year 2005 by August 1, 2004, from the Auxiliary Services Personnel 60743
Unemployment Compensation Fund to the Department of Education's 60744
Auxiliary Services Reimbursement Fund (Fund 598). 60745

Section 40.20. LOTTERY PROFITS EDUCATION FUND 60746

Appropriation item 200-612, Base Cost Funding (Fund 017), 60747
shall be used in conjunction with appropriation item 200-501, Base 60748
Cost Funding (GRF), to provide payments to school districts 60749
pursuant to Chapter 3317. of the Revised Code. 60750

The Department of Education, with the approval of the 60751
Director of Budget and Management, shall determine the monthly 60752
distribution schedules of appropriation item 200-501, Base Cost 60753
Funding (GRF), and appropriation item 200-612, Base Cost Funding 60754
(Fund 017). If adjustments to the monthly distribution schedule 60755
are necessary, the Department of Education shall make such 60756

adjustments with the approval of the Director of Budget and Management. 60757
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The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the appropriation item 230-428, Lease Rental Payments (GRF), of the School Facilities Commission. 60759
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* LOTTERY PROFITS TRANSFERS 60766

On or before the first day of May of each fiscal year, the Director of Budget and Management shall determine if lottery profits transfers will meet the appropriation amounts from the Lottery Profits Education Fund. 60767
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Section 40.21. LOTTERY PROFITS EDUCATION RESERVE FUND 60771

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. At no time shall the amount to the credit of the fund exceed \$75,000,000. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. Notwithstanding any provisions of law to the contrary, for fiscal years 2004 and 2005, there is appropriated to the Department of Education, from the Lottery Profits Education Reserve Fund, an amount necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code. All loan repayments from loans made in fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be deposited into the credit of the Lottery Profits Education Reserve Fund. 60772
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(B)(1) On or before July 15, 2003, the Director of Budget and Management shall determine the amount by which lottery profit 60785
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transfers received by the Lottery Profits Education Fund for 60787
fiscal year 2003 exceed \$637,722,600. The amount so certified 60788
shall be distributed in fiscal year 2004 pursuant to division (C) 60789
of this section. 60790

(2) On or before July 15, 2004, the Director of Budget and 60791
Management shall determine the amount by which lottery profit 60792
transfers received by the Lottery Profits Education Fund for 60793
fiscal year 2004 exceed \$637,900,000. The amount so determined 60794
shall be distributed in fiscal year 2005 pursuant to division (D) 60795
of this section. 60796

The Director of Budget and Management shall annually certify 60797
the amounts determined pursuant to this section to the Speaker of 60798
the House of Representatives and the President of the Senate. 60799

(C) In fiscal year 2004, if there is a balance in the Lottery 60800
Profits Education Fund, the moneys shall be allocated as provided 60801
in this division. Any amounts so allocated are appropriated. 60802

An amount equal to five per cent of the estimated lottery 60803
profits of \$637,722,600 in fiscal year 2003 or the amount 60804
remaining in the fund, whichever is the lesser amount, shall be 60805
transferred to the Lottery Profits Education Reserve Fund within 60806
the limitations specified in division (A) of this section and be 60807
reserved and shall not be available for allocation or distribution 60808
during fiscal year 2004. Any amounts exceeding \$75,000,000 shall 60809
be distributed pursuant to division (E) of this section. 60810

(D) In fiscal year 2005, if there is a balance in the Lottery 60811
Profits Education Fund, the moneys shall be allocated as provided 60812
in this division. Any amounts so allocated are appropriated. 60813

An amount equal to five per cent of the estimated lottery 60814
profits transfers of \$637,900,000 in fiscal year 2004 or the 60815
amount remaining in the fund, whichever is the lesser amount, 60816
shall be transferred to the Lottery Profits Education Reserve Fund 60817

within the limitations specified in division (A) of this section 60818
and be reserved and shall not be available for allocation or 60819
distribution during fiscal year 2005. Any amounts exceeding 60820
\$75,000,000 shall be distributed pursuant to division (E) of this 60821
section. 60822

(E) In the appropriate fiscal year, any remaining amounts 60823
after the operations required by division (C) or (D) of this 60824
section, respectively, shall be transferred to the Public School 60825
Building Fund (Fund 021) and such amount is appropriated to 60826
appropriation item CAP-622, Public School Buildings, in the School 60827
Facilities Commission. 60828

Section 40.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT 60829

The foregoing appropriation item 200-900, School District 60830
Property Tax Replacement, shall be used by the Department of 60831
Education, in consultation with the Department of Taxation, to 60832
make payments to school districts and joint vocational school 60833
districts pursuant to section 5727.85 of the Revised Code. 60834

Section 40.23. * DISTRIBUTION FORMULAS 60835

The Department of Education shall report the following to the 60836
Director of Budget and Management, the Legislative Office of 60837
Education Oversight, and the Legislative Service Commission: 60838

(A) Changes in formulas for distributing state 60839
appropriations, including administratively defined formula 60840
factors; 60841

(B) Discretionary changes in formulas for distributing 60842
federal appropriations; 60843

(C) Federally mandated changes in formulas for distributing 60844
federal appropriations. 60845

Any such changes shall be reported two weeks prior to the 60846

effective date of the change. 60847

Section 40.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY 60848
PAYMENTS 60849

This section shall not take effect unless the Director of 60850
Budget and Management adopts an order putting it into effect and 60851
certifies a copy of the order to the Superintendent of Public 60852
Instruction and the Controlling Board. 60853

Notwithstanding any other provision of the Revised Code, the 60854
monthly distribution of payments made to school districts and 60855
educational service centers pursuant to section 3317.01 of the 60856
Revised Code for the first six months of each fiscal year shall 60857
equal, as nearly as possible, six and two-thirds per cent of the 60858
estimate of the amounts payable for each fiscal year. The monthly 60859
distribution of payments for the last six months of each fiscal 60860
year shall equal, as nearly as possible, ten per cent of the final 60861
calculation of the amounts payable to each school district for 60862
that fiscal year. 60863

The treasurer of each school district or educational service 60864
center may accrue, in addition to the payments defined in this 60865
section, to the accounts of the calendar years that end during 60866
each fiscal year, the difference between the sum of the first six 60867
months' payments in each fiscal year and the amounts the district 60868
would have received had the payments been made in, as nearly as 60869
possible in each fiscal year, twelve equal monthly payments. 60870

Notwithstanding the limitations on the amount of borrowing 60871
and time of payment provided for in section 133.10 of the Revised 60872
Code but subject to sections 133.26 and 133.30 of the Revised 60873
Code, a board of education of a school district may at any time 60874
between July 1, 2003, and December 31, 2003, or at any time 60875
between July 1, 2004, and December 31, 2004, borrow money to pay 60876
any necessary and actual expenses of the school district during 60877

the last six months of calendar years 2003 and 2004 and in 60878
anticipation of the receipt of any portion of the payments to be 60879
received by that district in the first six months of calendar 60880
years 2004 and 2005 representing the respective amounts accrued 60881
pursuant to the preceding paragraph, and issue notes to evidence 60882
that borrowing to mature not later than the thirtieth day of June 60883
of the calendar year following the calendar year in which such 60884
amount was borrowed. The principal amount borrowed in the last six 60885
months of calendar years 2003 or 2004 under this paragraph may not 60886
exceed the entire amount accrued or to be accrued by the district 60887
treasurer in those calendar years pursuant to the preceding 60888
paragraph. The proceeds of the notes shall be used only for the 60889
purposes for which the anticipated receipts are lawfully 60890
appropriated by the board of education. No board of education 60891
shall be required to use the authority granted by this paragraph. 60892
The receipts so anticipated, and additional amounts from 60893
distributions to the districts in the first six months of calendar 60894
years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code 60895
needed to pay the interest on the notes, shall be deemed 60896
appropriated by the board of education to the extent necessary for 60897
the payment of the principal of and interest on the notes at 60898
maturity, and the amounts necessary to make those monthly 60899
distributions are appropriated from the General Revenue Fund. For 60900
the purpose of better ensuring the prompt payment of principal of 60901
and interest on the notes when due, the resolution of the board of 60902
education authorizing the notes may direct that the amount of the 60903
receipts anticipated, together with those additional amounts 60904
needed to pay the interest on the borrowed amounts, shall be 60905
deposited and segregated, in trust or otherwise, to the extent, at 60906
the time or times, and in the manner provided in that resolution. 60907
The borrowing authorized by this section does not constitute debt 60908
for purposes of section 133.04 of the Revised Code. School 60909
districts shall be reimbursed by the state for all necessary and 60910

actual costs to districts arising from this provision, including, 60911
without limitation, the interest paid on the notes while the notes 60912
are outstanding. The Department of Education shall adopt rules 60913
that are not inconsistent with this section for school district 60914
eligibility and application for reimbursement of such costs. 60915
Payments of these costs shall be made out of any anticipated 60916
balances in appropriation items distributed under Chapter 3317. of 60917
the Revised Code. The department shall submit all requests for 60918
reimbursement under these provisions to the Controlling Board for 60919
approval. 60920

During the last six months of each calendar year, instead of 60921
deducting the amount the Superintendent of Public Instruction 60922
would otherwise deduct from a school district's or educational 60923
service center's state aid payments in accordance with the 60924
certifications made for such year pursuant to sections 3307.56 and 60925
3309.51 of the Revised Code, the superintendent shall deduct an 60926
amount equal to forty per cent of the amount so certified. The 60927
secretaries of the retirement systems shall compute the 60928
certifications for the ensuing year under such sections as if the 60929
entire amounts certified as due in the calendar year ending the 60930
current fiscal year, but not deducted pursuant to this paragraph, 60931
had been deducted and paid in that calendar year. During the first 60932
six months of the ensuing calendar year, in addition to deducting 60933
the amounts the Superintendent of Public Instruction is required 60934
to deduct under such sections during such period, the 60935
superintendent shall deduct from a district's or educational 60936
service center's state aid payments an additional amount equal to 60937
the amount that was certified as due from the district for the 60938
calendar year that ends during the fiscal year, but that was not 60939
deducted because of this paragraph. The superintendent's 60940
certifications to the Director of Budget and Management during the 60941
first six months of the calendar year shall reflect such 60942
additional deduction. 60943

Section 40.25. EDUCATIONAL SERVICE CENTERS FUNDING 60944

Notwithstanding division (B) of section 3317.11 of the 60945
Revised Code, no funds shall be provided to an educational service 60946
center in either fiscal year for any pupils of a city or exempted 60947
village school district unless an agreement to provide services 60948
under section 3313.843 of the Revised Code was entered into by 60949
January 1, 1997, except that funds shall be provided to an 60950
educational service center for any pupils of a city school 60951
district if the agreement to provide services was entered into 60952
within one year of the date upon which such district changed from 60953
a local school district to a city school district. If insufficient 60954
funds are appropriated in fiscal year 2004 or fiscal year 2005 for 60955
the purposes of division (B) of section 3317.11 of the Revised 60956
Code, the Department shall first distribute to each educational 60957
service center \$37 per pupil in its service center ADM, as defined 60958
in that section. The remaining funds in each fiscal year shall be 60959
distributed proportionally, on a per-student basis, to each 60960
educational service center for its client ADM, as defined in that 60961
section, that is attributable to each city and exempted village 60962
school district that had entered into an agreement with an 60963
educational service center for that fiscal year under section 60964
3313.843 of the Revised Code by January 1, 1997. 60965

Section 40.26. * For the school year commencing July 1, 2003, 60966
or the school year commencing July 1, 2004, or both, the 60967
Superintendent of Public Instruction may waive for the board of 60968
education of any school district the ratio of teachers to pupils 60969
in kindergarten through fourth grade required under paragraph 60970
(A)(3) of rule 3301-35-05 of the Administrative Code if the 60971
following conditions apply: 60972

(A) The board of education requests the waiver. 60973

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

Section 40.27. PRIVATE TREATMENT FACILITY PILOT PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2004 or fiscal year 2005 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) Act One, in Akron;

(e) Friars Club, in Cincinnati.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education

program pursuant to division (B) of this section. 61003

(4) "School district responsible for tuition" means a city, 61004
exempted village, or local school district that, if tuition 61005
payment for a child by a school district is required under law 61006
that existed in fiscal year 1998, is the school district required 61007
to pay that tuition. 61008

(5) "Residential child" means a child who resides in a 61009
participating residential treatment center and who is receiving an 61010
educational program under division (B) of this section. 61011

(B) A youth who is a resident of the state and has been 61012
assigned by a juvenile court or other authorized agency to a 61013
residential treatment facility specified in division (A) of this 61014
section shall be enrolled in an approved educational program 61015
located in or near the facility. Approval of the educational 61016
program shall be contingent upon compliance with the criteria 61017
established for such programs by the Department of Education. The 61018
educational program shall be provided by a school district or 61019
educational service center, or by the residential facility itself. 61020
Maximum flexibility shall be given to the residential treatment 61021
facility to determine the provider. In the event that a voluntary 61022
agreement cannot be reached and the residential facility does not 61023
choose to provide the educational program, the educational service 61024
center in the county in which the facility is located shall 61025
provide the educational program at the treatment center to 61026
children under twenty-two years of age residing in the treatment 61027
center. 61028

(C) Any school district responsible for tuition for a 61029
residential child shall, notwithstanding any conflicting provision 61030
of the Revised Code regarding tuition payment, pay tuition for the 61031
child for fiscal year 2004 and fiscal year 2005 to the education 61032
program provider and in the amount specified in this division. If 61033
there is no school district responsible for tuition for a 61034

residential child and if the participating residential treatment 61035
center to which the child is assigned is located in the city, 61036
exempted village, or local school district that, if the child were 61037
not a resident of that treatment center, would be the school 61038
district where the child is entitled to attend school under 61039
sections 3313.64 and 3313.65 of the Revised Code, that school 61040
district, notwithstanding any conflicting provision of the Revised 61041
Code, shall pay tuition for the child for fiscal year 2004 and 61042
fiscal year 2005 under this division unless that school district 61043
is providing the educational program to the child under division 61044
(B) of this section. 61045

A tuition payment under this division shall be made to the 61046
school district, educational service center, or residential 61047
treatment facility providing the educational program to the child. 61048

The amount of tuition paid shall be: 61049

(1) The amount of tuition determined for the district under 61050
division (A) of section 3317.08 of the Revised Code; 61051

(2) In addition, for any student receiving special education 61052
pursuant to an individualized education program as defined in 61053
section 3323.01 of the Revised Code, a payment for excess costs. 61054
This payment shall equal the actual cost to the school district, 61055
educational service center, or residential treatment facility of 61056
providing special education and related services to the student 61057
pursuant to the student's individualized education program, minus 61058
the tuition paid for the child under division (C)(1) of this 61059
section. 61060

A school district paying tuition under this division shall 61061
not include the child for whom tuition is paid in the district's 61062
average daily membership or average daily attendance certified 61063
under division (A) of section 3317.03 or section 3317.034 of the 61064
Revised Code. 61065

(D) In each of fiscal years 2004 and 2005, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the formula amount specified in section 3317.022 of the Revised Code, except that the department shall proportionately reduce this reimbursement if sufficient funds are not available to pay this amount to all qualified providers.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The department shall monitor the programs for educational accountability.

Section 40.28. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

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.

Section 40.29. Notwithstanding division (C)(1) of section

3313.975 of the Revised Code, in addition to students in 61096
kindergarten through third grade, initial scholarships may be 61097
awarded to fourth, fifth, sixth, seventh, and eighth grade 61098
students in fiscal year 2004 and in fiscal year 2005. 61099

Section 40.30. STATEMENT OF STATE SHARE PERCENTAGE FOR BASE 61100
COST AND PARITY AID FUNDING 61101

Pursuant to division (D)(3) of section 3317.012 of the 61102
Revised Code, and based on the most recent data available prior to 61103
the enactment of this act, the General Assembly has determined 61104
that the state share percentage of base cost and parity aid 61105
funding for the update year (fiscal year 2002) is 49.0%. This is 61106
the target percentage for fiscal year 2004 and fiscal year 2005 61107
that the General Assembly shall use to fulfill its obligation 61108
under division (D)(4) of section 3317.012 of the Revised Code. 61109

Pursuant to division (D)(4) of section 3317.012 of the 61110
Revised Code, and based on the most recent data available prior to 61111
the enactment of this act, the General Assembly has determined 61112
that the state share percentage of base cost and parity aid 61113
funding for fiscal year 2004 is 46.5% and for fiscal year 2005 is 61114
48.6%. This determination fulfills the General Assembly's 61115
obligation under that division for fiscal year 2004 and fiscal 61116
year 2005. 61117

Section 40.31. DEPARTMENT OF EDUCATION APPROPRIATION 61118
TRANSFERS FOR STUDENT ASSESSMENT 61119

In fiscal year 2004 and fiscal year 2005, if the 61120
Superintendent of Public Instruction determines that additional 61121
funds are needed to fully fund the requirements of Am. Sub. S.B. 1 61122
of the 124th General Assembly for assessments of student 61123
performance, the Superintendent of Public Instruction may 61124
recommend the reallocation of unspent and unencumbered 61125

appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment.

Section 40.32. THE ENHANCED URBAN ATTENDANCE IMPROVEMENT INITIATIVE

The earmarked funds within appropriation item 200-501, Base Cost Funding, for the Enhanced Urban Attendance Improvement Initiative in Big Eight districts shall be distributed to each Big Eight school district in fiscal year 2005 in accordance with the following formula:

(District attendance rate in fiscal year 2005 - district attendance rate in fiscal year 2004) X district average daily attendance in fiscal year 2004 X the formula amount X the state funding percentage

Where:

(A) The district attendance rate in fiscal year 2005 equals the quotient of the total attendance days for that fiscal year divided by the sum of total attendance days plus the total excused and unexcused absence days for that fiscal year, as calculated by the Department of Education based on average daily attendance data reported under section 3317.034 of the Revised Code and other data reported under section 3301.0714 of the Revised Code.

(B) The district attendance rate in fiscal year 2004 equals the quotient of the total attendance days for that fiscal year divided by the sum of total attendance days plus the total excused and unexcused absence days for that fiscal year, as calculated by

the Department of Education using data comparable to the data 61156
described in division (A) of this section. 61157

(C) The average daily attendance for fiscal year 2004 is 61158
calculated by the Department in a manner comparable to the 61159
calculation of average daily attendance under section 3317.034 of 61160
the Revised Code. 61161

(D) "Formula amount" has the same meaning as in section 61162
3317.02 of the Revised Code. 61163

(E) The state funding percentage equals 50%, unless the 61164
amount calculated under this section exceeds the amount of the 61165
funds earmarked for this initiative, in which case the Department 61166
shall adjust the state funding percentage so that the aggregate 61167
funding distributed under this section shall not exceed the amount 61168
earmarked for this initiative. 61169

If the result of this calculation is less than zero for any 61170
Big Eight school district, the district's payment under this 61171
section is zero. 61172

Section 40.33. TRANSITIONAL AID FOR FISCAL YEAR 2005 61173

The Department of Education shall distribute earmarked funds 61174
within appropriation item 200-501, Base Cost Funding, for the 61175
transitional aid for fiscal year 2005 to each city, local, and 61176
exempted village school district that experiences a decrease in 61177
its SF-3 funding plus charge-off supplement for fiscal year 2005 61178
in excess of five per cent of its SF-3 funding plus charge-off 61179
supplement for fiscal year 2004. The Department shall distribute 61180
to each such district an amount to reduce the decrease to five per 61181
cent of the district's SF-3 funding plus charge-off supplement for 61182
fiscal year 2004. For this purpose, "SF-3 funding plus charge-off 61183
supplement" equals the sum of the following: 61184

(A) Base cost funding under division (A) of section 3317.022 61185

of the Revised Code;	61186
(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;	61187 61188 61189
(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;	61190 61191
(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;	61192 61193
(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;	61194 61195
(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	61196 61197 61198
(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;	61199 61200
(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;	61201 61202
(I) Equity aid under section 3317.0213 of the Revised Code;	61203
(J) Transportation under division (D) of section 3317.022 of the Revised Code;	61204 61205
(K) The state aid guarantee under section 3317.0212 of the Revised Code;	61206 61207
(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	61208 61209
(M) Parity aid under section 3317.0217 of the Revised Code;	61210
(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	61211 61212
(O) The charge-off supplement under section 3317.0216 of the Revised Code.	61213 61214

Section 40.34. Notwithstanding the amendments by this act to sections 3317.01, 3317.02, 3317.022, 3317.0217, and 3317.16 of the Revised Code, in fiscal year 2004, the Department of Education shall calculate and pay to school districts state base-cost and parity aid funding, and shall calculate their state share percentages, using formula ADM reported under section 3317.03 of the Revised Code instead of average daily attendance reported under section 3317.034 of the Revised Code. The Department shall use average daily attendance to calculate state base-cost and parity aid funding and state share percentages beginning in fiscal year 2005.

Section 40.35. (A) As used in this section:

(1) "IEP" has the same meaning as in section 3314.08 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior handicap conditions pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2004 and 2005 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any payments made under section 3314.08 of the Revised Code, in each of fiscal years 2004 and 2005 the Department of Education shall pay to a community school a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education

and related services additional weighted costs for those same 61245
students in fiscal year 2001. If the difference is a negative 61246
number, the amount of the subsidy shall be zero. 61247

(D) The amount of any subsidy paid to a community school 61248
under this section shall not be deducted from any moneys 61249
calculated under Chapter 3317. of the Revised Code for payment to 61250
a school district in which any of its students are entitled to 61251
attend school under section 3313.64 or 3313.65 of the Revised 61252
Code. 61253

The amount of any subsidy paid to a community school under 61254
this section shall be paid from the amount appropriated to the 61255
Department of Education in appropriation item 200-501, Base Cost 61256
Funding. 61257

Section 40.36. (A) As used in this section: 61258

(1) "Entitled to attend school" means entitled to attend 61259
school in a school district under section 3313.64 and 3313.65 of 61260
the Revised Code. 61261

(2) "Formula ADM" and "category six special education ADM" 61262
have the same meanings as in section 3317.02 of the Revised Code. 61263

(3) "Individualized education program" has the same meaning 61264
as in section 3323.01 of the Revised Code. 61265

(4) "Parent" has the same meaning as in section 3313.64 of 61266
the Revised Code. 61267

(5) "Qualified special education child" is a child for whom 61268
all of the following conditions apply: 61269

(a) The school district in which the child is entitled to 61270
attend school has identified the child as autistic; 61271

(b) The school district in which the child is entitled to 61272
attend school has developed an individualized education program 61273

under Chapter 3323. of the Revised Code for the child; 61274

(c) The child either: 61275

(i) Was enrolled in the school district in which the child is 61276
entitled to attend school in any grade from preschool through 61277
twelve in the school year prior to the year in which a scholarship 61278
under this section is first sought for the child; 61279

(ii) Is eligible to enter school in any grade preschool 61280
through twelve in the school district in which the child is 61281
entitled to attend school in the school year in which a 61282
scholarship under this section is first sought for the child. 61283

(6) "Registered private provider" means a nonpublic school or 61284
other nonpublic entity that has been approved by the Department of 61285
Education to participate in the program established under this 61286
section. 61287

(B) There is hereby established the Pilot Project Special 61288
Education Scholarship Program. Under the program, in fiscal years 61289
2004 and 2005, the Department of Education shall pay a scholarship 61290
to the parent of each qualified special education child upon 61291
application of that parent pursuant to procedures and deadlines 61292
established by rule of the State Board of Education. Each 61293
scholarship shall be used only to pay tuition for the child on 61294
whose behalf the scholarship is awarded to attend a special 61295
education program that implements the child's individualized 61296
education program and that is operated by a school district other 61297
than the school district in which the child is entitled to attend 61298
school or by another public entity, to either of which under law 61299
the parent is required to pay tuition on behalf of the child, or 61300
by a registered private provider. Each scholarship shall be in an 61301
amount not to exceed the lesser of the tuition charged for the 61302
child by the special education program or fifteen thousand 61303
dollars. The purpose of the scholarship is to permit the parent of 61304

a qualified special education child the choice to send the child 61305
to a special education program, instead of, or in addition to, the 61306
one operated by or for the school district in which the child is 61307
entitled to attend school, to receive the services prescribed in 61308
the child's individualized education program. A child attending a 61309
special education program with a scholarship under this section 61310
shall continue to be entitled to transportation to and from that 61311
program in the manner prescribed by law. 61312

(C)(1) Notwithstanding anything to the contrary in the 61313
Revised Code, a child for whom a scholarship is awarded under this 61314
section shall be counted in the formula ADM and the category six 61315
special education ADM of the district in which the child is 61316
entitled to attend school and not in the formula ADM and the 61317
category six special education ADM of any other school district. 61318

(2) In each fiscal year, the Department shall deduct from the 61319
amounts paid to each school district under Chapter 3317. of the 61320
Revised Code, and, if necessary, sections 321.14 and 323.156 of 61321
the Revised Code, the aggregate amount of scholarships awarded 61322
under this section for qualified special education children 61323
included in the formula ADM and category six special education ADM 61324
of that school district as provided in division (C)(1) of this 61325
section. The scholarships deducted shall be considered as an 61326
approved special education and related services expense for the 61327
purpose of the school district's compliance with division (C)(5) 61328
of section 3317.022 of the Revised Code. 61329

(3) From time to time, the Department shall make a payment to 61330
the parent of each qualified special education child for whom a 61331
scholarship has been awarded under this section. The scholarship 61332
amount shall be proportionately reduced in the case of any such 61333
child who is not enrolled in the special education program for 61334
which a scholarship was awarded under this section for the entire 61335
school year. 61336

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section. (E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by October 1, 2003.

Section 41. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK				61350
COMMISSION				61351
General Revenue Fund				61352
GRF 374-100 Personal Services	\$	1,300,000	\$ 1,300,000	61353
GRF 374-200 Maintenance	\$	800,000	\$ 800,000	61354
GRF 374-300 Equipment	\$	97,500	\$ 97,500	61355
GRF 374-401 Statehouse News Bureau	\$	185,508	\$ 185,508	61356
GRF 374-402 Ohio Government	\$	688,289	\$ 688,289	61357
Telecommunications				
Studio				
GRF 374-403 Ohio SONET	\$	2,000,000	\$ 2,000,000	61358
GRF 374-404 Telecommunications	\$	3,962,199	\$ 3,864,269	61359
Operating Subsidy				
TOTAL GRF General Revenue Fund	\$	9,033,496	\$ 8,935,566	61360
General Services Fund Group				61361
4F3 374-603 Affiliate Services	\$	3,067,447	\$ 3,067,447	61362
4T2 374-605 Government	\$	150,000	\$ 150,000	61363
Television/Telecommunications				

Operating

TOTAL GSF General Services				61364	
Fund Group	\$	3,217,447	\$	3,217,447	61365
TOTAL ALL BUDGET FUND GROUPS	\$	12,250,943	\$	12,153,013	61366
STATEHOUSE NEWS BUREAU				61367	
The foregoing appropriation item 374-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.				61368	
				61369	
				61370	
OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO				61371	
The foregoing appropriation item 374-402, Ohio Government Telecommunications Studio, shall be used solely to support the operations of the Ohio Government Telecommunications Studio.				61372	
				61373	
				61374	
OHIO SONET				61375	
The foregoing appropriation item 374-403, Ohio SONET, shall be used by the Ohio Educational Telecommunications Network Commission to pay monthly operating expenses and maintenance of the television and radio transmission infrastructure.				61376	
				61377	
				61378	
				61379	
TELECOMMUNICATIONS OPERATING SUBSIDY				61380	
Of the foregoing appropriation item 374-404, Telecommunications Operating Subsidy, \$45,000 in each fiscal year shall be used for dial-up newspaper reading services for the blind and physically handicapped				61381	
				61382	
				61383	
				61384	
The remainder of appropriation item 374-404, Telecommunications Operating Subsidy, shall be distributed by the Ohio Educational Telecommunications Network Commission to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation developed by the Ohio Educational Telecommunications Network Commission.				61385	
				61386	
				61387	
				61388	
				61389	
				61390	
				61391	
				61392	

Section 42. ELC OHIO ELECTIONS COMMISSION				61393
General Revenue Fund				61394
GRF 051-321 Operating Expenses	\$	294,857	\$ 294,857	61395
TOTAL GRF General Revenue Fund	\$	294,857	\$ 294,857	61396
State Special Revenue Fund Group				61397
4P2 051-601 Ohio Elections				61398
Commission Fund	\$	312,716	\$ 321,766	61399
TOTAL SSR State Special				61400
Revenue Fund Group	\$	312,716	\$ 321,766	61401
TOTAL ALL BUDGET FUND GROUPS	\$	607,573	\$ 616,623	61402
Section 43. FUN STATE BOARD OF EMBALMERS AND FUNERAL				61404
DIRECTORS				61405
General Services Fund Group				61406
4K9 881-609 Operating Expenses	\$	563,639	\$ 594,870	61407
TOTAL GSF General Services				61408
Fund Group	\$	563,639	\$ 594,870	61409
TOTAL ALL BUDGET FUND GROUPS	\$	563,639	\$ 594,870	61410
Section 44. ERB STATE EMPLOYMENT RELATIONS BOARD				61412
General Revenue Fund				61413
GRF 125-321 Operating Expenses	\$	3,268,338	\$ 3,268,338	61414
TOTAL GRF General Revenue Fund	\$	3,268,338	\$ 3,268,338	61415
General Services Fund Group				61416
572 125-603 Training and	\$	75,541	\$ 75,541	61417
Publications				
TOTAL GSF General Services				61418
Fund Group	\$	75,541	\$ 75,541	61419
TOTAL ALL BUDGET FUND GROUPS	\$	3,343,879	\$ 3,343,879	61420
Section 45. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				61422

General Services Fund Group				61423
4K9 892-609 Operating Expenses	\$	999,150	\$ 1,041,369	61424
TOTAL GSF General Services				61425
Fund Group	\$	999,150	\$ 1,041,369	61426
TOTAL ALL BUDGET FUND GROUPS	\$	999,150	\$ 1,041,369	61427
 Section 46. EPA ENVIRONMENTAL PROTECTION AGENCY				61429
General Revenue Fund				61430
GRF 715-403 Clean Ohio	\$	788,985	\$ 788,985	61431
GRF 715-501 Local Air Pollution	\$	1,119,878	\$ 1,091,882	61432
Control				
GRF 717-321 Surface Water	\$	9,333,376	\$ 9,358,950	61433
GRF 718-321 Groundwater	\$	1,195,001	\$ 1,163,554	61434
GRF 719-321 Air Pollution Control	\$	2,543,260	\$ 2,543,260	61435
GRF 721-321 Drinking Water	\$	2,713,032	\$ 2,713,032	61436
GRF 723-321 Hazardous Waste	\$	110,184	\$ 107,284	61437
GRF 724-321 Pollution Prevention	\$	765,137	\$ 745,002	61438
GRF 725-321 Laboratory	\$	1,290,237	\$ 1,293,971	61439
GRF 726-321 Corrective Actions	\$	1,253,593	\$ 1,255,080	61440
TOTAL GRF General Revenue Fund	\$	21,112,683	\$ 21,061,000	61441
General Services Fund Group				61442
199 715-602 Laboratory Services	\$	1,042,081	\$ 1,045,654	61443
219 715-604 Central Support	\$	15,239,297	\$ 15,544,407	61444
Indirect				
4A1 715-640 Operating Expenses	\$	3,308,758	\$ 3,369,731	61445
TOTAL GSF General Services				61446
Fund Group	\$	19,590,136	\$ 19,959,792	61447
Federal Special Revenue Fund Group				61448
3F2 715-630 Revolving Loan Fund -	\$	80,000	\$ 80,000	61449
Operating				
3F3 715-632 Fed Supported Cleanup	\$	2,792,648	\$ 2,326,434	61450
and Response				

3F4	715-633	Water Quality Management	\$	737,850	\$	712,850	61451
3F5	715-641	Nonpoint Source Pollution Management	\$	7,090,002	\$	7,155,000	61452
3J1	715-620	Urban Stormwater	\$	850,000	\$	956,001	61453
3K2	715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992	61454
3K4	715-634	DOD Monitoring and Oversight	\$	1,462,173	\$	1,450,333	61455
3K6	715-639	Remedial Action Plan	\$	416,000	\$	385,001	61456
3N1	715-655	Pollution Prevention Grants	\$	10,172	\$	0	61457
3N4	715-657	DOE Monitoring and Oversight	\$	3,362,932	\$	3,427,442	61458
3V7	715-606	Agencywide Grants	\$	100,268	\$	0	61459
352	715-611	Wastewater Pollution	\$	252,000	\$	265,002	61460
353	715-612	Public Water Supply	\$	2,480,989	\$	2,484,114	61461
354	715-614	Hazardous Waste Management - Federal	\$	4,195,192	\$	4,203,891	61462
357	715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501	61463
362	715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874	61464
TOTAL FED Federal Special Revenue							61465
Fund Group			\$	33,505,426	\$	33,273,435	61466
State Special Revenue Fund Group							61467
3T3	715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777	61468
4J0	715-638	Underground Injection Control	\$	379,488	\$	394,385	61469
4K2	715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002	61470
4K3	715-649	Solid Waste	\$	14,286,500	\$	14,698,987	61471
4K4	715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181	61472

4K5	715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946	61473
4P5	715-654	Cozart Landfill	\$	146,792	\$	149,728	61474
4R5	715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000	61475
4R9	715-658	Voluntary Action Program	\$	603,435	\$	795,671	61476
4T3	715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001	61477
4U7	715-660	Construction & Demolition Debris	\$	220,000	\$	220,000	61478
5H4	715-664	Groundwater Support	\$	1,768,661	\$	1,797,036	61479
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	61480
5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174	61481
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000	61482
503	715-621	Hazardous Waste Facility Management	\$	11,051,591	\$	11,465,671	61483
503	715-662	Hazardous Waste Facility Board	\$	566,350	\$	576,619	61484
505	715-623	Hazardous Waste Cleanup	\$	10,862,544	\$	11,557,987	61485
505	715-674	Clean Ohio Environmental Review	\$	999,896	\$	1,179,249	61486
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075	61487
542	715-671	Risk Management Reporting	\$	142,087	\$	146,188	61488
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000	61489
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,444,464	\$	1,437,398	61490
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114	61491
660	715-629	Infectious Waste	\$	160,000	\$	160,000	61492

		Management				
676	715-642	Water Pollution	\$	4,858,798	\$	4,964,625 61493
		Control Loan				
		Administration				
678	715-635	Air Toxic Release	\$	314,081	\$	210,662 61494
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647 61495
696	715-643	Air Pollution Control	\$	750,002	\$	750,000 61496
		Administration				
699	715-644	Water Pollution	\$	625,000	\$	625,000 61497
		Control Administration				
TOTAL SSR State Special Revenue			\$	99,964,418	\$	102,182,123 61498
Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	174,172,663	\$	176,476,350 61499
		CENTRAL SUPPORT INDIRECT				61500
		Notwithstanding any other provision of law to the contrary,				61501
		the Director of Environmental Protection, with the approval of the				61502
		Director of Budget and Management, shall utilize a methodology for				61503
		determining each division's payments into the Central Support				61504
		Indirect Fund (Fund 219). The methodology used shall contain the				61505
		characteristics of administrative ease and uniform application.				61506
		Payments to the Central Support Indirect Fund (Fund 219) shall be				61507
		made using an intrastate transfer voucher.				61508
		CLEAN OHIO - OPERATING				61509
		The foregoing appropriation item 715-607, Clean Ohio -				61510
		Operating, shall be used by the Ohio Environmental Protection				61511
		Agency in administering sections 122.65 to 122.658 of the Revised				61512
		Code.				61513
		Section 47. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION				61514
		General Revenue Fund				61515
GRF 172-321		Operating Expenses	\$	437,131	\$	439,109 61516

TOTAL GRF General Revenue Fund	\$	437,131	\$	439,109	61517
TOTAL ALL BUDGET FUND GROUPS	\$	437,131	\$	439,109	61518

Section 48. ETH OHIO ETHICS COMMISSION 61520

General Revenue Fund					61521
GRF 146-321 Operating Expenses	\$	1,257,016	\$	1,283,016	61522
TOTAL GRF General Revenue Fund	\$	1,257,016	\$	1,283,016	61523
General Services Fund Group					61524
4M6 146-601 Operating Expenses	\$	409,543	\$	383,543	61525
TOTAL GSF General Services					61526
Fund Group	\$	409,543	\$	383,543	61527
TOTAL ALL BUDGET FUND GROUPS	\$	1,666,559	\$	1,666,559	61528

Section 49. EXP OHIO EXPOSITIONS COMMISSION 61530

General Revenue Fund					61531
GRF 723-403 Junior Fair Subsidy	\$	465,412	\$	465,412	61532
TOTAL GRF General Revenue Fund	\$	465,412	\$	465,412	61533
State Special Revenue Fund Group					61534
4N2 723-602 Ohio State Fair	\$	520,000	\$	520,000	61535
Harness Racing					
506 723-601 Operating Expenses	\$	13,211,481	\$	13,643,315	61536
640 723-603 State Fair Reserve	\$	125,000	\$	0	61537
TOTAL SSR State Special Revenue					61538
Fund Group	\$	13,856,481	\$	14,163,315	61539
TOTAL ALL BUDGET FUND GROUPS	\$	14,321,893	\$	14,628,727	61540

STATE FAIR RESERVE 61541

The foregoing appropriation item 723-603, State Fair Reserve,	61542
shall serve as a budget reserve fund for the Ohio Expositions	61543
Commission in the event of a significant decline in attendance due	61544
to inclement weather or extraordinary circumstances during the	61545
Ohio State Fair resulting in a loss of revenue. The State Fair	61546

Reserve may be used by the Ohio Expositions Commission to pay 61547
bills resulting from the Ohio State Fair only if all the following 61548
criteria are met: 61549

(A) Admission revenues for the 2003 Ohio State Fair are less 61550
than \$2,542,500 or admission revenues for the 2004 Ohio State Fair 61551
are less than \$2,619,000 due to inclement weather or extraordinary 61552
circumstances. These amounts are ninety per cent of the projected 61553
admission revenues for each year. 61554

(B) The Ohio Expositions Commission declares a state of 61555
fiscal exigency and requests release of funds by the Director of 61556
Budget and Management. 61557

(C) The Director of Budget and Management releases the funds. 61558
The Director of Budget and Management may approve or disapprove 61559
the request for release of funds, may increase or decrease the 61560
amount of release, and may place such conditions as the director 61561
considers necessary on the use of the released funds. The Director 61562
of Budget and Management may transfer appropriation authority from 61563
fiscal year 2004 to fiscal year 2005 as needed. 61564

In the event that the Ohio Expositions Commission faces a 61565
temporary cash shortage that will preclude it from meeting current 61566
obligations, the Commission may request the Director of Budget and 61567
Management to approve use of the State Fair Reserve to meet those 61568
obligations. The request shall include a plan describing how the 61569
Commission will eliminate the cash shortage. If the Director of 61570
Budget and Management approves the expenditures, the Commission 61571
shall reimburse Fund 640 by the thirtieth day of June of that same 61572
fiscal year through an intrastate transfer voucher. The amount 61573
reimbursed is hereby appropriated. 61574

Of the foregoing appropriation item 723-603, State Fair 61575
Reserve, up to \$125,000 shall be transferred in fiscal year 2004 61576
to appropriation item 723-403, Junior Fair Subsidy. 61577

Section 50. GOV OFFICE OF THE GOVERNOR				61578	
General Revenue Fund				61579	
GRF 040-321 Operating Expenses	\$	4,112,358	\$	4,235,726	61580
GRF 040-403 Federal Relations	\$	493,818	\$	493,818	61581
GRF 040-408 Office of Veterans' Affairs	\$	276,723	\$	285,025	61582
GRF 040-503 Veterans' Organizations	\$	1,283,992	\$	1,283,992	61583
TOTAL GRF General Revenue Fund	\$	6,166,891	\$	6,298,561	61584
General Services Fund Group				61585	
412 040-607 Federal Relations	\$	500,000	\$	500,000	61586
TOTAL GSF General Services Fund Group	\$	500,000	\$	500,000	61587
TOTAL ALL BUDGET FUND GROUPS	\$	6,666,891	\$	6,798,561	61588
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR				61589	
The Governor may expend a portion of the foregoing				61590	
appropriation item 040-321, Operating Expenses, to hire or appoint				61591	
legal counsel to be used in proceedings involving the Governor in				61592	
the Governor's official capacity or the Governor's office only,				61593	
without the approval of the Attorney General, notwithstanding				61594	
sections 109.02 and 109.07 of the Revised Code.				61595	
VETERANS' ORGANIZATIONS				61596	
The foregoing appropriation item 040-503, Veterans'				61597	
Organizations, shall be used to provide subsidies to veterans'				61598	
organizations to promote and provide assistance to veterans in				61599	
Ohio. The Governor shall determine which veterans' organizations				61600	
receive funding, as well as determining the amount of each subsidy				61601	
for each fiscal year.				61602	
FEDERAL RELATIONS				61603	
Of the foregoing appropriation item 040-403, Federal				61604	

Relations, not more than \$142,428 shall be used for dues to the 61605
National Governor's Conference in each fiscal year, and not more 61606
than \$27,390 shall be used for dues to the Great Lakes Conference 61607
in each fiscal year. 61608

A portion of the foregoing appropriation items 040-403, 61609
Federal Relations, and 040-607, Federal Relations, may be used to 61610
support Ohio's membership in national or regional associations. 61611

The Office of the Governor may charge any state agency of the 61612
executive branch using an intrastate transfer voucher such amounts 61613
necessary to defray the costs incurred for the conduct of federal 61614
relations associated with issues that can be attributed to the 61615
agency. Amounts collected shall be deposited to the Office of the 61616
Governor Federal Relations Fund (Fund 412). 61617

Section 51. DOH DEPARTMENT OF HEALTH 61618

General Revenue Fund 61619

GRF 440-407 Animal Borne Disease \$ 2,690,101 \$ 2,690,101 61620
and Prevention

GRF 440-412 Cancer Incidence \$ 736,616 \$ 736,616 61621
Surveillance System

GRF 440-413 Healthy Communities \$ 4,139,009 \$ 4,139,009 61622

GRF 440-416 Child and Family \$ 8,872,472 \$ 8,872,472 61623
Health Services

GRF 440-418 Immunizations \$ 7,594,803 \$ 7,594,803 61624

GRF 440-419 Sexual Assault \$ 35,899 \$ 35,899 61625
Prevention

GRF 440-444 AIDS Prevention and \$ 7,589,816 \$ 7,589,816 61626
Treatment

GRF 440-446 Infectious Disease \$ 439,330 \$ 439,330 61627
Prevention

GRF 440-451 Lab and Public Health \$ 6,085,250 \$ 6,085,250 61628
Prevention Programs

GRF 440-452	Child and Family Health Services Match	\$ 1,024,017	\$ 1,024,017	61629
GRF 440-453	Health Care Quality Assurance	\$ 10,453,728	\$ 10,453,728	61630
GRF 440-454	Local Environmental Health	\$ 1,047,654	\$ 1,047,654	61631
GRF 440-459	Help Me Grow	\$ 9,861,089	\$ 9,861,089	61632
GRF 440-461	Center for Vital and Health Stats	\$ 3,579,790	\$ 3,579,790	61633
GRF 440-504	Poison Control Network	\$ 388,000	\$ 388,000	61634
GRF 440-505	Medically Handicapped Children	\$ 6,462,257	\$ 6,462,738	61635
GRF 440-507	Targeted Health Care Services Over 21	\$ 731,023	\$ 731,023	61636
GRF 440-508	Migrant Health	\$ 91,301	\$ 91,301	61637
TOTAL GRF	General Revenue Fund	\$ 71,822,155	\$ 71,822,636	61638
	General Services Fund Group			61639
142 440-618	General Operations - General Services Fund	\$ 1,201,059	\$ 1,290,530	61640
211 440-613	Central Support Indirect Costs	\$ 26,149,512	\$ 26,276,178	61641
473 440-622	Lab Operating Expenses	\$ 4,154,045	\$ 4,154,045	61642
683 440-633	Employee Assistance Program	\$ 1,192,234	\$ 1,192,214	61643
698 440-634	Nurse Aide Training	\$ 170,000	\$ 170,000	61644
TOTAL GSF	General Services Fund Group	\$ 32,866,850	\$ 33,082,967	61645 61646
	Federal Special Revenue Fund Group			61647
320 440-601	Maternal Child Health Block Grant	\$ 34,451,205	\$ 35,136,169	61648
387 440-602	Preventive Health Block Grant	\$ 8,200,000	\$ 8,200,000	61649

389	440-604	Women, Infants, and Children	\$	210,000,000	\$	220,000,000	61650
391	440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159	61651
392	440-618	General Operations - Federal Fund	\$	114,474,764	\$	115,319,323	61652
TOTAL FED Federal Special Revenue							61653
Fund Group			\$	393,420,243	\$	405,475,651	61654
State Special Revenue Fund Group							61655
4D6	440-608	Genetics Services	\$	2,300,000	\$	2,300,000	61656
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	61657
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	61658
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	61659
4L3	440-609	Miscellaneous Expenses	\$	256,082	\$	144,119	61660
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	61661
4V6	440-641	Save Our Sight	\$	1,733,327	\$	1,767,994	61662
470	440-618	General Operations - State Special Revenue	\$	14,454,867	\$	15,953,072	61663
471	440-619	Certificate of Need	\$	475,000	\$	483,572	61664
477	440-627	Medically Handicapped Children Audit	\$	4,640,498	\$	4,733,008	61665
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	61666
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	61667
5D6	440-620	Second Chance Trust	\$	887,018	\$	825,951	61668
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	61669
5E1	440-624	Health Services	\$	688,321	\$	0	61670
5L1	440-623	Nursing Facility Technical Assistance Program	\$	586,153	\$	617,517	61671

610	440-626	Radiation Emergency Response	\$	923,315	\$	923,315	61672
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	61673
TOTAL SSR State Special Revenue							61674
Fund Group			\$	44,858,390	\$	45,662,357	61675
Holding Account Redistribution Fund Group							61676
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	61677
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,400	\$	20,400	61678
TOTAL 090 Holding Account							61679
Redistribution Fund Group			\$	90,400	\$	90,400	61680
TOTAL ALL BUDGET FUND GROUPS			\$	543,058,038	\$	556,134,011	61681

Section 51.01. CANCER REGISTRY SYSTEM 61683

Of the foregoing appropriation item 440-412, Cancer Incidence
 Surveillance System, not more than \$50,000 in each fiscal year 61684
 shall be provided to Health Comp, Inc. 61685
 61686

The remaining moneys in appropriation item 440-412, Cancer
 Incidence Surveillance System, shall be used to maintain and 61687
 operate the Ohio Cancer Incidence Surveillance System pursuant to 61688
 sections 3701.261 to 3701.263 of the Revised Code. 61689
 61690

CHILD AND FAMILY HEALTH SERVICES 61691

Of the foregoing appropriation item 440-416, Child and Family
 Health Services, \$1,700,000 in each fiscal year shall be used for 61692
 women's health services. None of the funds received through these 61693
 grants shall be used to provide abortion services. None of the 61694
 funds received through these grants shall be used for counseling 61695
 for or referrals for abortion, except in the case of a medical 61696
 61697

emergency. These funds shall be distributed by the Director of 61698
Health to programs that the Department of Health determines will 61699
provide services that are physically and financially separate from 61700
abortion-providing and abortion-promoting activities, and that do 61701
not include counseling for or referrals for abortion, other than 61702
in the case of medical emergency. 61703

These women's health services include and are limited to the 61704
following: pelvic exams and lab testing; breast exams and patient 61705
education on breast cancer; screening for cervical cancer; 61706
screening and treatment for Sexually Transmitted Diseases (STDs) 61707
and HIV screening; voluntary choice of contraception, including 61708
abstinence and natural family planning; patient education and 61709
pre-pregnancy counseling on the dangers of smoking, alcohol, and 61710
drug use during pregnancy; education on sexual coercion and 61711
violence in relationships; and prenatal care or referral for 61712
prenatal care. These health care services shall be provided by 61713
doctors, nurses, medical assistants, counselors, and social 61714
workers in a medical clinic setting. 61715

The Director of Health shall adopt rules in accordance with 61716
Chapter 119. of the Revised Code specifying reasonable eligibility 61717
standards that must be met to receive the state funding and 61718
provide reasonable methods by which a grantee wishing to be 61719
eligible for federal funding may comply with these requirements 61720
for state funding without losing its eligibility for federal 61721
funding. Grant applicants need not provide all of the listed 61722
women's health services and no applicant will be discriminated 61723
against in the process of awarding these grant funds because the 61724
applicant does not provide all of the services listed. 61725

In distributing these grant funds, the Director of Health 61726
shall give priority to grant requests from local departments of 61727
health for women's health services to be provided directly by 61728
personnel of the local department of health. 61729

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.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$30,000 in each fiscal year shall be allocated to the Jewish Family Service of Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Service of Cincinnati, and \$10,000 in each fiscal year shall be allocated to the Jewish Family Services of Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to Clermont County's Comprehensive Community Suicide Prevention Program.

SEXUAL ASSAULT PREVENTION AND INTERVENTION

The foregoing appropriation item 440-419, Sexual Assault Prevention and Intervention, shall be used for the following

purposes:	61761
(A) Funding of new services in counties with no services for sexual assault;	61762 61763
(B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;	61764 61765 61766
(C) Start-up funding for Sexual Assault Nurse Examiner (SANE) projects;	61767 61768
(D) Statewide expansion of local outreach and public awareness efforts.	61769 61770
HIV/AIDS PREVENTION/TREATMENT	61771
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.	61772 61773 61774 61775
INFECTIOUS DISEASE PREVENTION	61776
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.	61777 61778 61779 61780
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.	61781 61782 61783 61784 61785 61786 61787
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	61788 61789 61790

diseases.	61791
HELP ME GROW	61792
The foregoing appropriation item 440-459, Help Me Grow, shall	61793
be used by the Department of Health to distribute subsidies to	61794
counties to implement the Help Me Grow program. Appropriation item	61795
440-459 may be used in conjunction with Temporary Assistance for	61796
Needy Families from the Department of Job and Family Services,	61797
Early Intervention funding from the Department of Mental	61798
Retardation and Developmental Disabilities, and in conjunction	61799
with other early childhood funds and services to promote the	61800
optimal development of young children. Local contracts shall be	61801
developed between local departments of job and family services and	61802
family and children first councils for the administration of TANF	61803
funding for the Help Me Grow Program. The Department of Health	61804
shall enter into an interagency agreement with the Department of	61805
Education, Department of Mental Retardation and Developmental	61806
Disabilities, Department of Job and Family Services, and	61807
Department of Mental Health to ensure that all early childhood	61808
programs and initiatives are coordinated and school linked.	61809
POISON CONTROL NETWORK	61810
The foregoing appropriation item 440-504, Poison Control	61811
Network, shall be used in each fiscal year by the Department of	61812
Health for grants to the consolidated Ohio Poison Control Center	61813
to provide poison control services to Ohio citizens.	61814
Notwithstanding section 3701.83 of the Revised Code, not	61815
later than the fifteenth day of July of each fiscal year or as	61816
soon as possible thereafter, the Director of Budget and Management	61817
shall transfer cash in the amount of \$127,287 from appropriation	61818
item 440-618, General Operations - General Services Fund, (Fund	61819
142) to the General Revenue Fund.	61820
TARGETED HEALTH CARE SERVICES OVER 21	61821

In each fiscal year, appropriation item 440-507, Targeted Health Care Services Over 21, shall be used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment program.

MATERNAL CHILD HEALTH BLOCK GRANT 61826

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. Such guidelines shall be pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

GENETICS SERVICES 61836

The foregoing appropriation item 440-608, Genetics Services (Fund 4D6), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

SAFETY AND QUALITY OF CARE STANDARDS 61842

The Department of Health may use Fund 471, Certificate of Need, for administering sections 3702.11 to 3702.20 and 3702.30 of the Revised Code in each fiscal year.

MEDICALLY HANDICAPPED CHILDREN AUDIT 61846

The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped

Children's Program recipients to apply for third-party benefits. 61852
Moneys also may be expended for payments for diagnostic and 61853
treatment services on behalf of medically handicapped children, as 61854
defined in division (A) of section 3701.022 of the Revised Code, 61855
and Ohio residents who are twenty-one or more years of age and who 61856
are suffering from cystic fibrosis. Moneys may also be expended 61857
for administrative expenses incurred in operating the Medically 61858
Handicapped Children's Program. 61859

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 61860
PERMIT FUND 61861

The Director of Budget and Management, pursuant to a plan 61862
submitted by the Department of Health, or as otherwise determined 61863
by the Director of Budget and Management, shall set a schedule to 61864
transfer cash from the Liquor Control Fund (Fund 043) to the 61865
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 61866
needs of the Alcohol Testing and Permit program. 61867

The Director of Budget and Management shall transfer to the 61868
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 61869
Fund (Fund 043) established in section 4301.12 of the Revised Code 61870
such amounts at such times as determined by the transfer schedule. 61871

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 61872

The foregoing appropriation item 440-607, Medically 61873
Handicapped Children - County Assessments (Fund 666), shall be 61874
used to make payments pursuant to division (E) of section 3701.023 61875
of the Revised Code. 61876

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 61877

The Director of Budget and Management shall transfer, by 61878
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 61879
Resident Protection Fund, in the Ohio Department of Job and Family 61880
Services, to Fund 5L1, Nursing Facility Technical Assistance Fund, 61881
in the Ohio Department of Health, to be used in accordance with 61882

section 3721.026 of the Revised Code. The transfers shall equal 61883
the amount appropriated per fiscal year in Fund 5L1, Nursing 61884
Facility Technical Assistance Fund. 61885

Section 52. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 61886

Agency Fund Group 61887
461 372-601 Operating Expenses \$ 15,290 \$ 16,819 61888
TOTAL AGY Agency Fund Group \$ 15,290 \$ 16,819 61889
TOTAL ALL BUDGET FUND GROUPS \$ 15,290 \$ 16,819 61890

Section 53. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 61892

General Revenue Fund 61893
GRF 148-100 Personal Services \$ 132,419 \$ 132,419 61894
GRF 148-200 Maintenance \$ 30,901 \$ 30,901 61895
TOTAL GRF General Revenue Fund \$ 163,320 \$ 163,320 61896
General Services Fund Group 61897
601 148-602 Gifts and \$ 8,485 \$ 8,485 61898
Miscellaneous
TOTAL GSF General Services 61899
Fund Group \$ 8,485 \$ 8,485 61900
TOTAL ALL BUDGET FUND GROUPS \$ 171,805 \$ 171,805 61901

Section 54. OHS OHIO HISTORICAL SOCIETY 61903

General Revenue Fund 61904
GRF 360-403 Adena - Worthington \$ 200,000 \$ 150,000 61905
Home
GRF 360-501 Operating Subsidy \$ 3,389,973 \$ 3,389,973 61906
GRF 360-502 Site Operations \$ 6,210,438 \$ 6,210,438 61907
GRF 360-503 Ohio Bicentennial \$ 1,847,239 \$ 58,164 61908
Commission
GRF 360-504 Ohio Preservation \$ 289,733 \$ 289,733 61909
Office

GRF 360-505	Afro-American Museum	\$	778,231	\$	778,231	61910
GRF 360-506	Hayes Presidential Center	\$	524,981	\$	524,981	61911
GRF 360-508	Historical Grants	\$	688,470	\$	688,470	61912
TOTAL GRF	General Revenue Fund	\$	13,929,065	\$	12,089,990	61913
TOTAL ALL BUDGET FUND GROUPS		\$	13,929,065	\$	12,089,990	61914

SUBSIDY APPROPRIATION 61915

Upon approval by the Director of Budget and Management, the 61916
foregoing appropriation items shall be released to the Ohio 61917
Historical Society in quarterly amounts that in total do not 61918
exceed the annual appropriations. The funds and fiscal records of 61919
the society for fiscal years 2004 and 2005 shall be examined by 61920
independent certified public accountants approved by the Auditor 61921
of State, and a copy of the audited financial statements shall be 61922
filed with the Office of Budget and Management. The society shall 61923
prepare and submit to the Office of Budget and Management the 61924
following: 61925

(A) An estimated operating budget for each fiscal year of the 61926
biennium. The operating budget shall be submitted at or near the 61927
beginning of each year. 61928

(B) Financial reports, indicating actual receipts and 61929
expenditures for the fiscal year to date. These reports shall be 61930
filed at least semiannually during the fiscal biennium. 61931

The foregoing appropriations shall be considered to be the 61932
contractual consideration provided by the state to support the 61933
state's offer to contract with the Ohio Historical Society under 61934
section 149.30 of the Revised Code. 61935

SITE OPERATIONS 61936

Of the foregoing appropriation item 360-502, Site Operations, 61937
funds shall be distributed to the Afro-American Museum, the Hayes 61938
Presidential Center, as well as other sites controlled by the Ohio 61939

Historical Society in each fiscal year.	61940
HAYES PRESIDENTIAL CENTER	61941
If a United States government agency, including, but not limited to, the National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.	61942 61943 61944 61945 61946 61947 61948
HISTORICAL GRANTS	61949
Of the foregoing appropriation item 360-508, Historical Grants, \$100,000 in each fiscal year shall be distributed to the Hebrew Union College in Cincinnati for the Center for Holocaust and Humanity Education.	61950 61951 61952 61953
OHIO BICENTENNIAL COMMISSION ROYALTIES	61954
Notwithstanding any previous arrangement to the contrary, the Ohio Bicentennial Commission shall keep the first \$100,000 in earned royalties associated with the Ohio Bicentennial logo during the 2003-2005 biennium. This \$100,000 shall be used to cover the operating expenses of the Ohio Bicentennial Commission in fiscal year 2005. The remaining moneys collected from royalties associated with the Ohio Bicentennial logo shall be deposited into the General Revenue Fund, of which \$350,000 shall be distributed to the Ohio Historical Society for use in appropriation item 360-403, Adena - Worthington Home.	61955 61956 61957 61958 61959 61960 61961 61962 61963 61964
Section 55. REP OHIO HOUSE OF REPRESENTATIVES	61965
General Revenue Fund	61966
GRF 025-321 Operating Expenses	\$ 19,018,547 \$ 19,969,473 61967
TOTAL GRF General Revenue Fund	\$ 19,018,547 \$ 19,969,473 61968
General Services Fund Group	61969

103 025-601 House Reimbursement	\$	1,351,875	\$	1,419,469	61970
4A4 025-602 Miscellaneous Sales	\$	35,690	\$	37,474	61971
TOTAL GSF General Services					61972
Fund Group	\$	1,387,565	\$	1,456,943	61973
TOTAL ALL BUDGET FUND GROUPS	\$	20,406,112	\$	21,426,416	61974

Section 56. IGO OFFICE OF THE INSPECTOR GENERAL 61976

General Revenue Fund					61977
GRF 965-321 Operating Expenses	\$	645,966	\$	651,009	61978
TOTAL GRF General Revenue Fund	\$	645,966	\$	651,009	61979
State Special Revenue Fund Group					61980
4Z3 965-602 Special Investigations	\$	100,000	\$	100,000	61981
TOTAL SSR State Special Revenue	\$	100,000	\$	100,000	61982
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	745,966	\$	751,009	61983

SPECIAL INVESTIGATIONS 61984

Of the foregoing appropriation item 965-602, Special 61985
Investigations, up to \$100,000 in each fiscal year may be used for 61986
investigative costs, pursuant to section 121.481 of the Revised 61987
Code. 61988

Section 57. INS DEPARTMENT OF INSURANCE 61989

Federal Special Revenue Fund Group					61990
3U5 820-602 OSHIIP Operating Grant	\$	560,559	\$	560,559	61991
TOTAL FED Federal Special					61992
Revenue Fund Group	\$	560,559	\$	560,559	61993
State Special Revenue Fund Group					61994
554 820-601 Operating Expenses -	\$	506,515	\$	561,411	61995
OSHIIP					
554 820-606 Operating Expenses	\$	21,815,431	\$	22,357,575	61996
555 820-605 Examination	\$	7,433,751	\$	7,639,581	61997

TOTAL SSR State Special Revenue				61998
Fund Group	\$	29,755,697	\$	30,558,567
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$	31,119,126
MARKET CONDUCT EXAMINATION				62001
When conducting a market conduct examination of any insurer				62002
doing business in this state, the Superintendent of Insurance may				62003
assess the costs of the examination against the insurer. The				62004
superintendent may enter into consent agreements to impose				62005
administrative assessments or fines for conduct discovered that				62006
may be violations of statutes or regulations administered by the				62007
superintendent. All costs, assessments, or fines collected shall				62008
be deposited to the credit of the Department of Insurance				62009
Operating Fund (Fund 554).				62010
EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES				62011
The Superintendent of Insurance may transfer funds from the				62012
Department of Insurance Operating Fund (Fund 554), established by				62013
section 3901.021 of the Revised Code, to the Superintendent's				62014
Examination Fund (Fund 555), established by section 3901.071 of				62015
the Revised Code, only for the expenses incurred in examining				62016
domestic fraternal benefit societies as required by section				62017
3921.28 of the Revised Code.				62018
On July 1, 2003, or as soon as possible thereafter, the				62019
Director of Budget and Management shall transfer \$1,000,000 from				62020
the Department of Insurance Operating Fund (Fund 554) to the				62021
General Revenue Fund.				62022
Section 58. JFS DEPARTMENT OF JOB AND FAMILY SERVICES				62023
General Revenue Fund				62024
GRF 600-321 Support Services				62025
State	\$	62,361,047	\$	58,611,047
Federal	\$	7,176,249	\$	7,125,883

	Support Services Total	\$	69,537,296	\$	65,736,930	62028
GRF 600-410	TANF State	\$	272,619,061	\$	272,619,061	62029
GRF 600-413	Child Care	\$	84,120,596	\$	84,120,596	62030
	Match/Maintenance of Effort					
GRF 600-416	Computer Projects					62031
	State	\$	120,000,000	\$	120,000,000	62032
	Federal	\$	31,095,442	\$	31,400,454	62033
	Computer Projects Total	\$	151,095,442	\$	151,400,454	62034
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446	62035
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932	62036
GRF 600-422	Local Operations	\$	2,305,232	\$	2,305,232	62037
GRF 600-423	Office of Children and Families	\$	5,000,000	\$	5,000,000	62038
GRF 600-424	Office of Workforce Development	\$	877,971	\$	877,971	62039
GRF 600-425	Office of Ohio Health Plans					62040
	State	\$	21,994,901	\$	22,603,740	62041
	Federal	\$	21,848,555	\$	22,495,502	62042
	Office of Ohio Health Plans Total	\$	43,793,456	\$	45,099,242	62043
GRF 600-435	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	62044
GRF 600-4XX	Commission to Reform Medicaid	\$	125,000	\$	125,000	62045
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	62046
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	62047

GRF 600-521	Family Stability Subsidy	\$ 55,206,401	\$ 55,206,401	62048
GRF 600-523	Children and Families Subsidy	\$ 69,846,563	\$ 69,846,563	62049
GRF 600-525	Health Care/Medicaid			62050
	State	\$ 3,675,314,765	\$ 3,895,928,257	62051
	Federal	\$ 5,219,983,810	\$ 5,572,285,639	62052
	Health Care Total	\$ 8,895,298,575	\$ 9,468,213,896	62053
GRF 600-528	Adoption Services			62054
	State	\$ 33,395,955	\$ 36,017,981	62055
	Federal	\$ 37,368,248	\$ 41,115,000	62056
	Adoption Services Total	\$ 70,764,203	\$ 77,132,981	62057
TOTAL GRF	General Revenue Fund			62058
	State	\$ 4,455,915,817	\$ 4,676,060,174	62059
	Federal	\$ 5,317,472,304	\$ 5,674,422,478	62060
	GRF Total	\$ 9,773,388,121	\$10,350,482,652	62061
	General Services Fund Group			62062
4A8 600-658	Child Support Collections	\$ 27,255,646	\$ 26,680,794	62063
4R4 600-665	BCII Services/Fees	\$ 136,974	\$ 136,974	62064
5C9 600-671	Medicaid Program Support	\$ 54,686,270	\$ 55,137,078	62065
5N1 600-677	County Technologies	\$ 5,000,000	\$ 5,000,000	62066
613 600-645	Training Activities	\$ 135,000	\$ 135,000	62067
TOTAL GSF	General Services Fund Group	\$ 87,213,890	\$ 87,089,846	62068 62069
	Federal Special Revenue Fund Group			62070
3A2 600-641	Emergency Food Distribution	\$ 2,083,500	\$ 2,187,675	62071
3D3 600-648	Children's Trust Fund Federal	\$ 2,040,524	\$ 2,040,524	62072

3F0	600-623	Health Care Federal	\$	391,658,105	\$	394,221,409	62073
3F0	600-650	Hospital Care	\$	298,128,308	\$	305,879,644	62074
		Assurance Match					
3G5	600-655	Interagency	\$	1,180,523,642	\$	1,245,244,536	62075
		Reimbursement					
3H7	600-617	Child Care Federal	\$	224,539,425	\$	235,045,596	62076
3N0	600-628	IV-E Foster Care	\$	173,963,142	\$	173,963,142	62077
		Maintenance					
3S5	600-622	Child Support Projects	\$	534,050	\$	534,050	62078
3V0	600-662	WIA Ohio Option #7	\$	87,407,014	\$	89,352,850	62079
3V0	600-688	Workforce Investment	\$	93,636,390	\$	94,932,750	62080
		Act					
3V4	600-678	Federal Unemployment	\$	139,590,682	\$	142,411,608	62081
		Programs					
3V4	600-679	Unemployment	\$	3,097,320	\$	2,860,297	62082
		Compensation Review					
		Commission - Federal					
3V6	600-689	TANF Block Grant	\$	761,095,609	\$	816,909,688	62083
3W3	600-659	TANF/Title XX	\$	72,796,826	\$	72,796,826	62084
316	600-602	State and Local	\$	11,212,594	\$	11,249,282	62085
		Training					
327	600-606	Child Welfare	\$	29,119,408	\$	28,665,728	62086
331	600-686	Federal Operating	\$	48,237,185	\$	47,340,081	62087
365	600-681	JOB Training Program	\$	5,000,000	\$	0	62088
384	600-610	Food Stamps and State	\$	134,560,572	\$	135,141,694	62089
		Administration					
385	600-614	Refugee Services	\$	5,793,656	\$	5,841,407	62090
395	600-616	Special	\$	3,975,821	\$	3,975,821	62091
		Activities/Child and					
		Family Services					
396	600-620	Social Services Block	\$	47,469,767	\$	47,486,134	62092
		Grant					
397	600-626	Child Support	\$	273,707,264	\$	272,212,680	62093

398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370	62094
TOTAL FED Federal Special Revenue 62095							
Fund Group			\$	4,330,128,782	\$	4,470,397,792	62096
State Special Revenue Fund Group 62097							
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109	62098
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000	62099
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914	62100
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000	62101
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310	62102
4J5	600-613	Nursing Facility Bed Assessments	\$	35,060,013	\$	35,064,238	62103
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	62104
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726	62105
4R3	600-687	Banking Fees	\$	592,937	\$	592,937	62106
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	62107
5A5	600-685	Unemployment Benefit Automation	\$	7,000,000	\$	0	62108
5P5	600-692	Health Care Services	\$	385,100,993	\$	448,932,851	62109
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	30,797,539	\$	30,797,539	62110
5R2	600-608	Medicaid-Nursing Facilities	\$	113,754,184	\$	113,754,184	62111
5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960	62112

5T2 600-652	Child Support Special Payment	\$ 1,500,000	\$ 750,000	62113
5U3 600-654	Health Care Services Administration	\$ 7,576,322	\$ 6,119,127	62114
5U6 600-663	Children and Family Support	\$ 4,929,718	\$ 4,929,718	62115
651 600-649	Hospital Care Assurance Program Fund	\$ 208,634,072	\$ 214,058,558	62116
TOTAL SSR State Special Revenue				62117
Fund Group		\$ 860,250,120	\$ 920,265,171	62118
Agency Fund Group				62119
192 600-646	Support Intercept - Federal	\$ 136,500,000	\$ 136,500,000	62120
5B6 600-601	Food Stamp Intercept	\$ 5,000,000	\$ 5,000,000	62121
583 600-642	Support Intercept - State	\$ 20,565,582	\$ 20,565,582	62122
TOTAL AGY Agency Fund Group		\$ 162,065,582	\$ 162,065,582	62123
Holding Account Redistribution Fund Group				62124
R12 600-643	Refunds and Audit Settlements	\$ 5,343,906	\$ 5,343,906	62125
R13 600-644	Forgery Collections	700,000	700,000	62126
TOTAL 090 Holding Account Redistribution Fund Group		\$ 6,043,906	\$ 6,043,906	62127
TOTAL ALL BUDGET FUND GROUPS		\$15,219,090,401	\$15,996,344,949	62128

Section 58.01. OHIO COMMISSION TO REFORM MEDICAID 62130

The foregoing appropriation item 600-4XX, Commission to Reform Medicaid, shall be used to fund the Ohio Commission to Reform Medicaid. 62131
62132
62133

HEALTH CARE/MEDICAID 62134

The foregoing appropriation item 600-525, Health 62135

Care/Medicaid, shall not be limited by the provisions of section 62136
131.33 of the Revised Code. 62137

Notwithstanding any other law to the contrary, up to 62138
\$2,176,269 in appropriation item 600-511, Disability Financial 62139
Assistance, shall be used in each fiscal year for services for 62140
residents of residential treatment centers certified as an alcohol 62141
or drug addiction program by the Department of Alcohol and Drug 62142
Addiction Services under section 3793.06 of the Revised Code. 62143

Section 58.02. CHILD SUPPORT COLLECTIONS/TANF MOE 62144

The foregoing appropriation item 600-658, Child Support 62145
Collections, shall be used by the Department of Job and Family 62146
Services to meet the TANF maintenance of effort requirements of 62147
Pub. L. No. 104-193. After the state has met the maintenance of 62148
effort requirement, the Department of Job and Family Services may 62149
use funds from appropriation item 600-658 to support public 62150
assistance activities. 62151

Section 58.03. MEDICAID PROGRAM SUPPORT FUND - STATE 62152

The foregoing appropriation item 600-671, Medicaid Program 62153
Support, shall be used by the Department of Job and Family 62154
Services to pay for Medicaid services and contracts. The 62155
Department may also deposit to Fund 5C9 revenues received from 62156
other state agencies for Medicaid services under the terms of 62157
interagency agreements between the Department and other state 62158
agencies. 62159

Section 58.04. HEALTH CARE SERVICES ADMINISTRATION 62160

The foregoing appropriation item 600-654, Health Care 62161
Services Administration, shall be used by the Department of Job 62162
and Family Services for costs associated with the administration 62163
of the Medicaid program. 62164

Section 58.05. HEALTH CARE SERVICES ADMINISTRATION FUND 62165

Of the amount received by the Department of Job and Family 62166
Services during fiscal year 2004 and fiscal year 2005 from the 62167
first installment of assessments paid under section 5112.06 of the 62168
Revised Code and intergovernmental transfers made under section 62169
5112.07 of the Revised Code, the Director of Job and Family 62170
Services shall deposit \$350,000 into the state treasury to the 62171
credit of the Health Care Services Administration Fund (Fund 5U3). 62172

HOSPITAL CARE ASSURANCE MATCH FUND 62173

Appropriation item 600-650, Hospital Care Assurance Match, 62174
shall be used by the Department of Job and Family Services in 62175
accordance with division (B) of section 5112.18 of the Revised 62176
Code. 62177

Section 58.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS 62178

Upon the request of the Department of Job and Family 62179
Services, the Director of Budget and Management may seek 62180
Controlling Board approval to increase appropriations in 62181
appropriation item 600-689, TANF Block Grant, provided sufficient 62182
funds exist to do so without any corresponding decrease in other 62183
appropriation items. The Department of Job and Family Services 62184
shall provide the Director of Budget and Management and the 62185
Controlling Board with documentation to support the need for the 62186
increased appropriation. 62187

All transfers of moneys from or charges against TANF Federal 62188
Block Grant awards for use in the Social Services Block Grant or 62189
the Child Care and Development Block Grant shall be done after the 62190
Department of Job and Family Services gives written notice to the 62191
Director of Budget and Management. The Department of Job and 62192
Family Services shall first provide the Director of Budget and 62193
Management with documentation to support the need for such 62194

transfers or charges for use in the Social Services Block Grant or 62195
in the Child Care and Development Block Grant. 62196

Before the thirtieth day of September of each fiscal year, 62197
the Department of Job and Family Services shall file claims with 62198
the United States Department of Health and Human Services for 62199
reimbursement for all allowable expenditures for services provided 62200
by the Department of Job and Family Services, or other agencies 62201
that may qualify for Social Services Block Grant funding pursuant 62202
to Title XX of the Social Security Act. 62203

Section 58.06a. GOVERNOR'S OFFICE FOR FAITH-BASED NONPROFIT 62204
AND OTHER NONPROFIT ORGANIZATIONS 62205

Of the foregoing appropriation item 600-659, TANF/Title XX, 62206
\$625,000 in the fiscal year 2004-2005 biennium shall be used to 62207
support the activities of the Governor's Office for Faith-Based 62208
Nonprofit and Other Nonprofit Organizations. 62209

OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS 62210

Of the foregoing appropriation item 600-659, TANF/Title XX 62211
(Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by 62212
the Department of Job and Family Services to support expenditures 62213
to the Ohio Association of Second Harvest Food Banks according to 62214
the following criteria. 62215

As used in this section, "federal poverty guidelines" has the 62216
same meaning as in section 5101.46 of the Revised Code. 62217

The Department of Job and Family Services shall provide an 62218
annual grant of \$4,500,000 in each of the fiscal years 2004 and 62219
2005 to the Ohio Association of Second Harvest Food Banks. In each 62220
fiscal year, the Ohio Association of Second Harvest Food Banks 62221
shall use \$2,500,000 for the purchase of food products for the 62222
Ohio Food Program, of which up to \$105,000 may be used for food 62223
storage and transport, and shall use \$2,000,000 for the 62224

Agricultural Surplus Production Alliance Project. Funds provided 62225
for the Ohio Food Program shall be used to purchase food products 62226
and to distribute those food products to agencies participating in 62227
the emergency food distribution program. No funds provided through 62228
this grant may be used for administrative expenses other than 62229
funds provided for food storage and transport. As soon as possible 62230
after entering into a grant agreement at the beginning of each 62231
fiscal year, the Department of Job and Family Services shall 62232
distribute the grant funds in one single payment. The Ohio 62233
Association of Second Harvest Food Banks shall develop a plan for 62234
the distribution of the food products to local food distribution 62235
agencies. Agencies receiving these food products shall ensure that 62236
individuals and families who receive any of the food products 62237
purchased with these funds have an income at or below 150 per cent 62238
of the federal poverty guidelines. The Department of Job and 62239
Family Services and the Ohio Association of Second Harvest Food 62240
Banks shall agree on reporting requirements to be incorporated 62241
into the grant agreement. 62242

The Ohio Association of Second Harvest Food Banks shall 62243
return any fiscal year 2004 funds from this grant remaining 62244
unspent on June 30, 2004, to the Department of Job and Family 62245
Services not later than November 1, 2004. The Ohio Association of 62246
Second Harvest Food Banks shall return any fiscal year 2005 funds 62247
from the grant remaining unspent on June 30, 2005, to the 62248
Department of Job and Family Services no later than November 1, 62249
2005. 62250

Section 58.06b. ADULT PROTECTIVE SERVICES 62251

Of the foregoing appropriation item 600-659, TANF/Title XX 62252
(Fund 3W3), up to \$2,700,000 in each fiscal year shall be used by 62253
the Department of Job and Family Services to reimburse county 62254
departments of job and family services for all or part of the 62255

costs they incur in providing adult protective services pursuant 62256
to sections 5101.60 to 5101.71 of the Revised Code. 62257

Section 58.07. PRESCRIPTION DRUG REBATE FUND 62258

The foregoing appropriation item 600-692, Health Care 62259
Services, shall be used by the Department of Job and Family 62260
Services in accordance with section 5111.081 of the Revised Code. 62261
Moneys recovered by the Department pursuant to the Department's 62262
rights of recovery under section 5101.58 of the Revised Code, that 62263
are not directed to the Health Care Services Administration Fund 62264
(Fund 5U3) pursuant to section 5111.94 of the Revised Code shall 62265
also be deposited into Fund 5P5. 62266

Section 58.08. ODJFS FUNDS 62267

AGENCY FUND GROUP 62268

The Agency Fund Group shall be used to hold revenues until 62269
the appropriate fund is determined or until they are directed to 62270
the appropriate governmental agency other than the Department of 62271
Job and Family Services. If it is determined that additional 62272
appropriation authority is necessary, such amounts are hereby 62273
appropriated. 62274

HOLDING ACCOUNT REDISTRIBUTION GROUP 62275

The foregoing appropriation items 600-643, Refunds and Audit 62276
Settlements, and 600-644, Forgery Collections, Holding Account 62277
Redistribution Fund Group, shall be used to hold revenues until 62278
they are directed to the appropriate accounts or until they are 62279
refunded. If it is determined that additional appropriation 62280
authority is necessary, such amounts are hereby appropriated. 62281

Section 58.09. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY 62282
DEPARTMENTS OF JOB AND FAMILY SERVICES 62283

Using the foregoing appropriation items 600-521, Family Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps and State Administration; 600-410, TANF State; 600-689, TANF Block Grant; 600-620, Social Services Block Grant; 600-523, Children and Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 600-617, Child Care Federal; and 600-614, Refugees Services, the Department of Job and Family Services may establish a single allocation for county departments of job and family services. The county department is not required to use all the money from one or more of the appropriation items listed in this paragraph for the purpose for which the specific appropriation item is made so long as the county department uses the money for a purpose for which at least one of the other of those appropriation items is made. The county department may not use the money in the allocation for a purpose other than a purpose any of those appropriation items are made. If the spending estimates used in establishing the single allocation are not realized and the county department uses money in one or more of those appropriation items in a manner for which federal financial participation is not available, the department shall use state funds available in one or more of those appropriation items to ensure that the county department receives the full amount of its allocation.

Section 58.10. TRANSFER OF FUNDS

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and Community-Based Services, in the Ohio Department of Mental Retardation and Developmental Disabilities. The sum of the transfers shall equal \$12,000,000 in fiscal year 2004 and \$12,000,000 in fiscal year 2005. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both

departments. 62315

The Department of Job and Family Services shall transfer, 62316
through intrastate transfer vouchers, cash from the State Special 62317
Revenue Fund 4J5, Home and Community-Based Services for the Aged, 62318
to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the 62319
transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 62320
in fiscal year 2005. The transfer may occur on a quarterly basis 62321
or on a schedule developed and agreed to by both departments. 62322

TRANSFERS OF IMD/DSH CASH 62323

The Department of Job and Family Services shall transfer, 62324
through intrastate transfer voucher, cash from fund 5C9, Medicaid 62325
Program Support, to the Department of Mental Health's Fund 4X5, 62326
OhioCare, in accordance with an interagency agreement which 62327
delegates authority from the Department of Job and Family Services 62328
to the Department of Mental Health to administer specified 62329
Medicaid services. 62330

Section 58.11. EMPLOYER SURCHARGE 62331

The surcharge and the interest on the surcharge amounts due 62332
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 62333
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 62334
118th General Assembly, and section 4141.251 of the Revised Code 62335
as it existed prior to Sub. H.B. 478 of the 122nd General 62336
Assembly, again shall be assessed and collected by, accounted for, 62337
and made available to the Department of Job and Family Services in 62338
the same manner as set forth in section 4141.251 of the Revised 62339
Code as it existed prior to Sub. H.B. 478 of the 122nd General 62340
Assembly, notwithstanding the repeal of the surcharge for calendar 62341
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 62342
Assembly, except that amounts received by the Director on or after 62343
July 1, 2001, shall be deposited into the special administrative 62344
fund established pursuant to section 4141.11 of the Revised Code. 62345

Section 58.12. FUNDING FOR HABILITATIVE SERVICES 62346

Notwithstanding any limitations contained in sections 5112.31 62347
and 5112.37 of the Revised Code, in each fiscal year, cash from 62348
State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess 62349
of the amounts needed for transfers to Fund 4K8 may be used by the 62350
Department of Job and Family Services to cover costs of care 62351
provided to participants in a waiver with an ICF/MR level of care 62352
requirement administered by the Department of Job and Family 62353
Services. 62354

Section 58.13. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND 62355
THE OHIO ACCESS SUCCESS PROJECT 62356

Notwithstanding any limitations in sections 3721.51 and 62357
3721.56 of the Revised Code, in each fiscal year, cash from the 62358
State Special Revenue Fund 4J5, Home and Community-Based Services 62359
for the Aged, in excess of the amounts needed for the transfers 62360
may be used by the Department of Job and Family Services for the 62361
following purposes: (A) up to \$1.0 million in each fiscal year to 62362
fund the state share of audits of Medicaid cost reports filed with 62363
the Department of Job and Family Services by nursing facilities 62364
and intermediate care facilities for the mentally retarded; and 62365
(B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in 62366
fiscal year 2005 to provide one-time transitional benefits under 62367
the Ohio Access Success Project that the Director of Job and 62368
Family Services may establish under section 5111.206 of the 62369
Revised Code. 62370

Section 58.14. REFUND OF SETS PENALTY 62371

The Department of Job and Family Services shall deposit any 62372
refunds for penalties that were paid directly or indirectly by the 62373
state for the Support Enforcement Tracking System (SETS) to Fund 62374

3V6, TANF Block Grant. 62375

Section 58.15. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY 62376

The Director of Job and Family Services may submit to the 62377
United States Secretary of Health and Human Services a request to 62378
transfer the day-to-day administration of the Program of 62379
All-Inclusive Care for the Elderly, known as PACE, in accordance 62380
with 42 U.S.C. 1396u-4, to the Department of Aging. If the United 62381
States Secretary approves the transfer, the Directors of Job and 62382
Family Services and Aging may enter into an interagency agreement 62383
under section 5111.86 of the Revised Code to transfer 62384
responsibility for the day-to-day administration of PACE from the 62385
Department of Job and Family Services to the Department of Aging. 62386
The interagency agreement is subject to the approval of the 62387
Director of Budget and Management and shall include an estimated 62388
cost of services to be provided under PACE and an estimated cost 62389
for the administrative duties assigned by the agreement to the 62390
Department of Aging. 62391

If the Directors of Job and Family Services and Aging enter 62392
into the interagency agreement, the Director of Budget and 62393
Management shall reduce the amount in appropriation item 600-525, 62394
Health Care/Medicaid, by the estimated costs of PACE. If the 62395
Director of Budget and Management makes the reduction, the state 62396
and federal share of the estimated costs of PACE services and 62397
administration is hereby appropriated to the Department of Aging. 62398
The Director of Budget and Management shall establish a new 62399
appropriation item for the appropriation. 62400

Section 58.16. MEDICAID ELIGIBILITY REDUCTIONS 62401

The Director of Job and Family Services shall, not later than 62402
ninety days after the effective date of this section, submit to 62403
the United States Secretary of Health and Human Services an 62404

amendment to the state Medicaid plan to eliminate the expansion of 62405
eligibility required by the version of section 5111.019 of the 62406
Revised Code that existed prior to the amendment made by this act. 62407
The reduction in eligibility mandated by this section shall be 62408
implemented not earlier than October 1, 2003, and not later than 62409
the effective date of federal approval. 62410

Section 58.18. APPROPRIATIONS FROM FUND 3V0 62411

Upon the request of the Department of Job and Family 62412
Services, the Director of Budget and Management may increase 62413
appropriations in either appropriation item 600-662, WIA Ohio 62414
Option #7, Fund 3V0 or in appropriation item 600-688, Workforce 62415
Investment Act, Fund 3V0, with a corresponding decrease in the 62416
other appropriation item supported by Fund 3V0 to allow counties 62417
that administer the Workforce Investment Act as a conventional 62418
county to administer the Act as an Ohio Option county or to allow 62419
counties that administer the Workforce Investment Act as an Ohio 62420
Option county to administer the Act as a conventional county. 62421

DISPLACED HOME MAKERS TRANSFER 62422

Not later than July 15, 2003, or as soon as possible 62423
thereafter, the Director of Budget and Management shall transfer 62424
from Workforce Investment Act funds (Fund 3V0), reserved for 62425
statewide workforce investment activities, \$209,046 in 62426
appropriations to appropriation item 235-631, Federal Grants (Fund 62427
312), in the Board of Regents. Not later than July 15, 2004, or as 62428
soon as possible thereafter, the Director of Budget and Management 62429
shall transfer from Workforce Investment Act funds (Fund 3V0), 62430
reserved for statewide workforce investment activities, \$203,819 62431
in appropriations to appropriation item 235-631, Federal Grants 62432
(Fund 312), in the Board of Regents. The transferred 62433
appropriations shall be used in accordance with the State 62434
Workforce Investment Plan to provide activities for displaced 62435

homemakers, as allowed under the Workforce Investment Act of 1998. 62436

Section 58.19. FEDERAL UNEMPLOYMENT PROGRAMS 62437

There is hereby appropriated out of funds made available to 62438
the state under section 903(d) of the Social Security Act, as 62439
amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for 62440
fiscal year 2005. Upon the request of the Director of Job and 62441
Family Services, the Director of Budget and Management shall 62442
increase the appropriation for fiscal year 2004 by the amount 62443
remaining unspent from the fiscal year 2003 appropriation and 62444
shall increase the appropriation for fiscal year 2005 by the 62445
amount remaining unspent from the fiscal year 2004 appropriation. 62446
The appropriation is to be used under the direction of the 62447
Department of Job and Family Services to pay for administrative 62448
activities for the Unemployment Insurance Program, employment 62449
services, and other allowable expenditures under section 903(d) of 62450
the Social Security Act, as amended. 62451

The amounts obligated pursuant to this section shall not 62452
exceed at any time the amount by which the aggregate of the 62453
amounts transferred to the account of the state pursuant to 62454
section 903(d) of the Social Security Act, as amended, exceeds the 62455
aggregate of the amounts obligated for administration and paid out 62456
for benefits and required by law to be charged against the amounts 62457
transferred to the account of the state. 62458

Of the appropriation item 600-678, Federal Unemployment 62459
Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General 62460
Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up 62461
to \$18,000,000 in fiscal year 2005 shall be used by the Department 62462
of Job and Family Services to reimburse the General Revenue Fund, 62463
through state intrastate transfer vouchers, for expenses incurred 62464
on or after the effective date of this section from the General 62465
Revenue Fund for the aforementioned programs as reported to the 62466

federal government as allowable expenditures. 62467

Section 58.20. MEDICAID PAYMENT TO CHILDREN'S HOSPITALS 62468

As used in this section, "children's hospital" has the same 62469
meaning as in section 3702.51 of the Revised Code. 62470

For fiscal years 2004 and 2005, the Medicaid payment to 62471
children's hospitals shall include the adjustment for inflation 62472
provided for by paragraph (G) of rule 5101:3-2-074 of the 62473
Administrative Code as that paragraph existed on December 30, 62474
2002. 62475

The Department of Job and Family Services shall pay to each 62476
children's hospital participating in the Medicaid program an 62477
amount equal to the difference between (1) the amount the hospital 62478
would have been paid under rule 5101:3-2-074 of the Administrative 62479
Code for the period beginning January 1, 2003, and ending May 31, 62480
2003, if the amendment to paragraph (G) of that rule that went 62481
into effect on December 31, 2002, had not gone into effect and (2) 62482
the amount that the hospital was paid under that rule for that 62483
period. 62484

Section 58.21. HEAD START 62485

The Department of Job and Family Services, before September 62486
30, 2003, shall transfer \$101,200,000 from the TANF Block Grant to 62487
the Child Care and Development Fund, and before September 30, 62488
2004, shall transfer \$103,184,000 from the TANF Block Grant to the 62489
Child Care and Development Fund. In each fiscal year, these funds 62490
shall be transferred to appropriation item 200-663, Head Start 62491
Plus/Head Start (Fund 5W2), in the Department of Education. 62492

Notwithstanding anything to the contrary in sections 3301.31 62493
to 3301.37 of the Revised Code, eligibility and service 62494
restrictions of Title IV-A of the Social Security Act shall not 62495
apply to the Head Start and Head Start Plus programs created by 62496

those sections. To the fullest extent possible, the Head Start Plus/Head Start Program shall be funded through this transfer of TANF Block Grant funds to the Child Care and Development Fund, provided that the actions of the Department of Job and Family Services and the Department of Education do not conflict with applicable federal statutes, if any.

The Head Start Plus/Head Start Program shall be administered by the Department of Education in accordance with an interagency agreement entered into with the Department of Job and Family Services, and in accordance with the terms of section 5104.30 of the Revised Code, as amended by this act. The agreement shall specify audit and reporting requirements applicable to the use of moneys from the Child Care and Development Fund.

Section 58.22. MEDICAID PER DIEM ADJUSTMENTS FOR ICFs/MR

(A) As used in this section:

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

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

(B) Notwithstanding sections 5111.20 to 5111.33 of the Revised Code, rates paid to intermediate care facilities for the mentally retarded under the Medicaid program shall be subject to

the following limitations: 62527

(1) For fiscal year 2004, the mean total per diem rate for 62528
all intermediate care facilities for the mentally retarded in the 62529
state, weighted by Medicaid days and calculated as of July 1, 62530
2003, shall not exceed \$228.89. 62531

(2) For fiscal year 2005, the mean total per diem rate for 62532
all intermediate care facilities for the mentally retarded in the 62533
state, weighted by Medicaid days and calculated as of July 1, 62534
2004, shall not exceed \$233.47. 62535

(3) If the mean total per diem rate for all intermediate care 62536
facilities for the mentally retarded in the state for fiscal year 62537
2004 or 2005, weighted by Medicaid days and calculated as of the 62538
first day of July of the calendar year in which the fiscal year 62539
begins, exceeds the amount specified in division (B)(1) or (2) of 62540
this section, as applicable, the Department of Job and Family 62541
Services shall reduce the total per diem rate for each 62542
intermediate care facility for the mentally retarded in the state 62543
by a percentage that is equal to the percentage by which the mean 62544
total per diem rate exceeds the amount specified in division 62545
(B)(1) or (2) of this section for that fiscal year. 62546

Section 58.23. MEDICAID PER DIEM ADJUSTMENTS FOR NURSING 62547
FACILITIES 62548

(A) As used in this section: 62549

(1) "Medicaid day" means all days during which a resident who 62550
is a Medicaid recipient occupies a bed in a nursing facility that 62551
is included in the facility's certified capacity under Title XIX 62552
of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, 62553
as amended. Therapeutic or hospital leave days for which payment 62554
is made under section 5111.33 of the Revised Code are considered 62555
Medicaid days proportionate to the percentage of the nursing 62556

facility's per resident per day rate paid for those days. 62557

(2) "Nursing facility" has the same meaning as in section 62558
5111.20 of the Revised Code. 62559

(B) Notwithstanding sections 5111.20 to 5111.33 of the 62560
Revised Code, rates paid to nursing facilities under the Medicaid 62561
program shall be subject to the following limitations: 62562

(1) If the number of Medicaid days for which Medicaid 62563
payments are made to all nursing facilities in the state during 62564
fiscal year 2004 exceeds 19,686,516, the Department of Job and 62565
Family Services shall reduce, for fiscal year 2005, the total per 62566
diem rate for each nursing facility by an amount determined as 62567
follows: 62568

(a) Subtract 19,686,516 from the number of Medicaid days for 62569
which Medicaid payments are made to all nursing facilities in the 62570
state during fiscal year 2004; 62571

(b) Multiply the difference determined under division 62572
(B)(1)(a) of this section by the average nursing facility per diem 62573
rate, weighted by Medicaid days, for fiscal year 2004; 62574

(c) Divide the product determined under division (B)(1)(b) of 62575
this section by the number of Medicaid days for which Medicaid 62576
payments are made to all nursing facilities in the state during 62577
fiscal year 2004. 62578

(2) If the number of Medicaid days for which Medicaid 62579
payments are made to all nursing facilities in the state during 62580
fiscal year 2004 is less than 19,686,516, the Department of Job 62581
and Family Services shall increase, for fiscal year 2005, the 62582
total per diem rate for each nursing facility by an amount 62583
determined as follows: 62584

(a) Subtract the number of Medicaid days for which Medicaid 62585
payments are made to all nursing facilities in the state during 62586

fiscal year 2004 from 19,686,516; 62587

(b) Multiply the difference determined under division 62588
(B)(2)(a) of this section by the average nursing facility per diem 62589
rate, weighted by Medicaid days, for fiscal year 2004; 62590

(c) Divide the product determined under division (B)(2)(b) of 62591
this section by the total number of Medicaid days for which 62592
Medicaid payments are made to all nursing facilities in the state 62593
during fiscal year 2004. 62594

(3) If the number of Medicaid days for which Medicaid 62595
payments are made to all nursing facilities in the state during 62596
the first half of fiscal year 2005 exceeds 9,744,826, the 62597
Department of Job and Family Services shall reduce, for the second 62598
half of fiscal year 2005, the total per diem rate for each nursing 62599
facility by an amount determined as follows: 62600

(a) Subtract 9,744,826 from the number of Medicaid days for 62601
which Medicaid payments are made to all nursing facilities in the 62602
state during the first half of fiscal year 2005; 62603

(b) Multiply the difference determined under division 62604
(B)(3)(a) of this section by the average nursing facility per diem 62605
rate, weighted by Medicaid days, for the first half of fiscal year 62606
2005; 62607

(c) Divide the product determined under division (B)(3)(b) of 62608
this section by the number of Medicaid days for which Medicaid 62609
payments are made to all nursing facilities in the state during 62610
the first half of fiscal year 2005. 62611

(4) If the number of Medicaid days for which Medicaid 62612
payments are made to all nursing facilities in the state during 62613
the first half of fiscal year 2005 is less than 9,744,826, the 62614
Department of Job and Family Services shall increase, for the 62615
second half of fiscal year 2005, the total per diem rate for each 62616
nursing facility by an amount determined as follows: 62617

(a) Subtract the number of Medicaid days for which Medicaid payments are made to all nursing facilities in the state during the first half of fiscal year 2005 from 9,744,826;

(b) Multiply the difference determined under division (B)(4)(a) of this section by the average nursing facility per diem rate, weighted by Medicaid days, for the first half of fiscal year 2005;

(c) Divide the product determined under division (B)(4)(b) of this section by the total number of Medicaid days for which Medicaid payments are made to all nursing facilities in the state during the first half of fiscal year 2005.

(5) A per diem rate decrease or increase for the second half of fiscal year 2005 under division (B)(3) or (4) of this section is cumulative to a per diem rate decrease or increase under division (B)(1) or (2) of this section.

Section 58.24. MEDICAID COVERAGE OF VISION SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover vision care services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of vision care services adopted under section 5111.02 of the Revised Code.

Section 58.25. MEDICAID COVERAGE OF DENTAL SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover dental services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of dental services adopted under section 5111.02 of the Revised Code.

Section 58.26. MEDICAID COVERAGE OF PODIATRIC SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall
continue to cover podiatric services in at least the amount,
duration, and scope that it does on the effective date of this
section under rules governing Medicaid coverage of podiatric
services adopted under section 5111.02 of the Revised Code.

Section 58.27. (A) There is hereby created the Medicaid
Medical Savings Account Study Committee consisting of all of the
following members:

(1) Two members of the House of Representatives, one from
each party, appointed by the Speaker of the House of
Representatives;

(2) Two members of the Senate, one from each party, appointed
by the President of the Senate;

(3) One representative of the Department of Job and Family
Services, appointed by the Governor;

(4) One representative of the insurance industry, appointed
by the Speaker of the House of Representatives;

(5) One representative of the insurance industry, appointed
by the President of the Senate.

(B) The Medicaid Medical Savings Account Study Committee
shall study the idea of implementing a medical savings account
component in the Medicaid Program. As part of its study, the
committee shall examine the fiscal effects a medical savings
account component would have on the Medicaid Program, which groups
of Medicaid recipients might benefit from a medical savings
account component, and other issues the committee determines
relevant to its study. The committee shall issue a report on its
findings not later than one year after the effective date of this
section.

(C) The House of Representatives shall provide the Medicaid

Medical Savings Account Study Committee with meeting space and 62676
other support necessary for the committee to do its work. 62677

Section 58.28. WELFARE DIVERSION PROGRAMS 62678

Of the foregoing appropriation item 600-521, Family Stability 62679
Subsidy, prior to county distribution, \$1,250,000 in each fiscal 62680
year shall be used to support specific welfare diversion programs. 62681
In each fiscal year, Accountability and Credibility Together (ACT) 62682
shall receive \$1,000,000 of the \$1,250,000 to continue its welfare 62683
diversion program. In each fiscal year, \$250,000 of the \$1,250,000 62684
shall be used to establish a welfare diversion demonstration 62685
project in Butler County. 62686

Section 58.29. OHIO COMMISSION TO REFORM MEDICAID 62687

There is hereby established the Ohio Commission to Reform 62688
Medicaid, which shall consist of nine members: three appointed by 62689
the Governor, three by the Speaker of the House of 62690
Representatives, and three by the President of the Senate. 62691
Appointments shall be made not later than ninety days after the 62692
effective date of this section. All members shall serve at the 62693
pleasure of the appointing authority. Members shall serve without 62694
compensation. Vacancies shall be filled in the manner of original 62695
appointments. 62696

The Commission shall conduct a complete review of the state 62697
Medicaid program and shall make recommendations for comprehensive 62698
reform and cost containment. The Commission shall submit a report 62699
of its findings and recommendations to the Governor, Speaker, and 62700
Senate President not later than January 1, 2005. 62701

The Commission may hire a staff director and additional 62702
employees to provide technical support. 62703

The Director of Job and Family Services shall, on behalf of 62704
the Commission, seek federal financial participation for the 62705

administrative costs of the Commission. 62706

Section 59. JCO JUDICIAL CONFERENCE OF OHIO 62707

General Revenue Fund 62708

GRF 018-321 Operating Expenses \$ 962,000 \$ 957,000 62709

TOTAL GRF General Revenue Fund \$ 962,000 \$ 957,000 62710

General Services Fund Group 62711

403 018-601 Ohio Jury Instructions \$ 200,000 \$ 200,000 62712

TOTAL GSF General Services Fund \$ 200,000 \$ 200,000 62713

Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,162,000 \$ 1,157,000 62714

STATE COUNCIL OF UNIFORM STATE LAWS 62715

Notwithstanding section 105.26 of the Revised Code, of the 62716

foregoing appropriation item 018-321, Operating Expenses, up to 62717

\$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 62718

may be used to pay the expenses of the State Council of Uniform 62719

State Laws, including membership dues to the National Conference 62720

of Commissioners on Uniform State Laws. 62721

OHIO JURY INSTRUCTIONS FUND 62722

The Ohio Jury Instructions Fund (Fund 403) shall consist of 62723

grants, royalties, dues, conference fees, bequests, devises, and 62724

other gifts received for the purpose of supporting costs incurred 62725

by the Judicial Conference of Ohio in dispensing educational and 62726

informational data to the state's judicial system. Fund 403 shall 62727

be used by the Judicial Conference of Ohio to pay expenses 62728

incurred in dispensing educational and informational data to the 62729

state's judicial system. All moneys accruing to Fund 403 in excess 62730

of \$200,000 in fiscal year 2004 and in excess of \$200,000 in 62731

fiscal year 2005 are hereby appropriated for the purposes 62732

authorized. 62733

No money in the Ohio Jury Instructions Fund shall be 62734

transferred to any other fund by the Director of Budget and Management or the Controlling Board. 62735
62736

Section 60. JSC THE JUDICIARY/SUPREME COURT 62737

General Revenue Fund 62738

GRF 005-321 Operating Expenses - \$ 113,846,495 \$ 118,617,425 62739
Judiciary/Supreme
Court

GRF 005-401 State Criminal \$ 346,194 \$ 356,371 62740
Sentencing Council

TOTAL GRF General Revenue Fund \$ 114,192,689 \$ 118,973,796 62741

General Services Fund Group 62742

672 005-601 Continuing Judicial \$ 126,000 \$ 120,000 62743
Education

TOTAL GSF General Services Fund \$ 126,000 \$ 120,000 62744
Group

Federal Special Revenue Fund Group 62745

3J0 005-603 Federal Grants \$ 1,030,061 \$ 1,030,061 62746

TOTAL FED Federal Special Revenue \$ 1,030,061 \$ 1,030,061 62747
Fund Group

State Special Revenue Fund Group 62748

4C8 005-605 Attorney Registration \$ 2,332,733 \$ 2,495,171 62749

5T8 005-609 Grants and Awards \$ 33,296 \$ 33,296 62750

6A8 005-606 Supreme Court \$ 1,230,514 \$ 1,267,428 62751
Admissions

643 005-607 Commission on \$ 568,788 \$ 587,210 62752
Continuing Legal
Education

TOTAL SSR State Special Revenue \$ 4,165,331 \$ 4,383,105 62753

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 119,514,081 \$ 124,506,962 62754

CONTINUING JUDICIAL EDUCATION 62755

The Continuing Judicial Education Fund (Fund 672) shall 62756
consist of fees paid by judges and court personnel for attending 62757
continuing education courses and other gifts and grants received 62758
for the purpose of continuing judicial education. The foregoing 62759
appropriation item 005-601, Continuing Judicial Education, shall 62760
be used to pay expenses for continuing education courses for 62761
judges and court personnel. If it is determined by the 62762
Administrative Director of the Supreme Court that additional 62763
appropriations are necessary, the amounts are hereby appropriated. 62764

No money in the Continuing Judicial Education Fund shall be 62765
transferred to any other fund by the Director of Budget and 62766
Management or the Controlling Board. Interest earned on moneys in 62767
the Continuing Judicial Education Fund shall be credited to the 62768
fund. 62769

FEDERAL GRANTS 62770

The Federal Grants Fund (Fund 3J0) shall consist of grants 62771
and other moneys awarded to the Supreme Court (The Judiciary) by 62772
the United States Government or other entities that receive the 62773
moneys directly from the United States Government and distribute 62774
those moneys to the Supreme Court (The Judiciary). The foregoing 62775
appropriation item 005-603, Federal Grants, shall be used in a 62776
manner consistent with the purpose of the grant or award. If it is 62777
determined by the Administrative Director of the Supreme Court 62778
that additional appropriations are necessary, the amounts are 62779
hereby appropriated. 62780

No money in the Federal Grants Fund shall be transferred to 62781
any other fund by the Director of Budget and Management or the 62782
Controlling Board. However, interest earned on moneys in the 62783
Federal Grants Fund shall be credited or transferred to the 62784
General Revenue Fund. 62785

ATTORNEY REGISTRATION 62786

In addition to funding other activities considered 62787
appropriate by the Supreme Court, the foregoing appropriation item 62788
005-605, Attorney Registration, may be used to compensate 62789
employees and fund the appropriate activities of the following 62790
offices established by the Supreme Court pursuant to the Rules for 62791
the Government of the Bar of Ohio: the Office of Disciplinary 62792
Counsel, the Board of Commissioners on Grievances and Discipline, 62793
the Clients' Security Fund, the Board of Commissioners on the 62794
Unauthorized Practice of Law, and the Office of Attorney 62795
Registration. If it is determined by the Administrative Director 62796
of the Supreme Court that additional appropriations are necessary, 62797
the amounts are hereby appropriated. 62798

No moneys in the Attorney Registration Fund shall be 62799
transferred to any other fund by the Director of Budget and 62800
Management or the Controlling Board. Interest earned on moneys in 62801
the Attorney Registration Fund shall be credited to the fund. 62802

GRANTS AND AWARDS 62803

The Grants and Awards Fund (Fund 5T8) shall consist of grants 62804
and other moneys awarded to the Supreme Court (The Judiciary) by 62805
the State Justice Institute, the Office of Criminal Justice 62806
Services, or other entities. The foregoing appropriation item 62807
005-609, Grants and Awards, shall be used in a manner consistent 62808
with the purpose of the grant or award. If it is determined by the 62809
Administrative Director of the Supreme Court that additional 62810
appropriations are necessary, the amounts are hereby appropriated. 62811

No moneys in the Grants and Awards Fund shall be transferred 62812
to any other fund by the Director of Budget and Management or the 62813
Controlling Board. However, interest earned on moneys in the 62814
Grants and Awards Fund shall be credited or transferred to the 62815
General Revenue Fund. 62816

SUPREME COURT ADMISSIONS 62817

The foregoing appropriation item 005-606, Supreme Court 62818
Admissions, shall be used to compensate Supreme Court employees 62819
who are primarily responsible for administering the attorney 62820
admissions program, pursuant to the Rules for the Government of 62821
the Bar of Ohio, and to fund any other activities considered 62822
appropriate by the court. Moneys shall be deposited into the 62823
Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme 62824
Court Rules for the Government of the Bar of Ohio. If it is 62825
determined by the Administrative Director of the Supreme Court 62826
that additional appropriations are necessary, the amounts are 62827
hereby appropriated. 62828

No moneys in the Supreme Court Admissions Fund shall be 62829
transferred to any other fund by the Director of Budget and 62830
Management or the Controlling Board. Interest earned on moneys in 62831
the Supreme Court Admissions Fund shall be credited to the fund. 62832

CONTINUING LEGAL EDUCATION 62833

The foregoing appropriation item 005-607, Commission on 62834
Continuing Legal Education, shall be used to compensate employees 62835
of the Commission on Continuing Legal Education, established 62836
pursuant to the Supreme Court Rules for the Government of the Bar 62837
of Ohio, and to fund other activities of the commission considered 62838
appropriate by the court. If it is determined by the 62839
Administrative Director of the Supreme Court that additional 62840
appropriations are necessary, the amounts are hereby appropriated. 62841

No moneys in the Continuing Legal Education Fund shall be 62842
transferred to any other fund by the Director of Budget and 62843
Management or the Controlling Board. Interest earned on moneys in 62844
the Continuing Legal Education Fund shall be credited to the fund. 62845

Section 61. LEC LAKE ERIE COMMISSION 62846

State Special Revenue Fund Group				62847
4C0 780-601 Lake Erie Protection	\$	1,070,975	\$ 1,070,975	62848
Fund				
5D8 780-602 Lake Erie Resources	\$	689,004	\$ 689,004	62849
Fund				
TOTAL SSR State Special Revenue				62850
Fund Group	\$	1,759,979	\$ 1,759,979	62851
TOTAL ALL BUDGET FUND GROUPS	\$	1,759,979	\$ 1,759,979	62852

CASH TRANSFER 62853

Not later than the thirtieth day of November of each fiscal year, the Executive Director of the Ohio Lake Erie Office, with the approval of the Lake Erie Commission, shall certify to the Director of Budget and Management the cash balance in the Lake Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet operating expenses of the Lake Erie Office. The Ohio Lake Erie Office may request the Director of Budget and Management to transfer up to the certified amount from the Lake Erie Resources Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of Budget and Management may transfer the requested amount, or the Director may transfer a different amount up to the certified amount. Cash transferred shall be used for the purposes described in division (A) of section 1506.23 of the Revised Code. The amount transferred by the director is appropriated to the foregoing appropriation item 780-601, Lake Erie Protection Fund, which shall be increased by the amount transferred.

Section 62. LRS LEGAL RIGHTS SERVICE 62870

General Revenue Fund				62871
GRF 054-100 Personal Services	\$	193,514	\$ 193,514	62872
GRF 054-200 Maintenance	\$	33,938	\$ 33,938	62873
GRF 054-300 Equipment	\$	1,856	\$ 1,856	62874
GRF 054-401 Ombudsman	\$	291,247	\$ 291,247	62875

TOTAL GRF General Revenue Fund	\$	520,555	\$	520,555	62876
General Services Fund Group					62877
416 054-601 Gifts and Donations	\$	1,352	\$	1,352	62878
5M0 054-610 Settlements	\$	75,000	\$	75,000	62879
TOTAL GSF General Services					62880
Fund Group	\$	76,352	\$	76,352	62881
Federal Special Revenue Fund Group					62882
3B8 054-603 Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279	62883
3N3 054-606 Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648	62884
3N9 054-607 Assistive Technology	\$	50,000	\$	50,000	62885
3R9 054-604 Family Support Collaborative	\$	242,500	\$	242,500	62886
3T2 054-609 Client Assistance Program	\$	404,807	\$	404,807	62887
3X1 054-611 Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	62888
3Z6 054-612 Traumatic Brain Injury	\$	50,000	\$	50,000	62889
305 054-602 Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363	62890
TOTAL FED Federal Special Revenue					62891
Fund Group	\$	3,741,381	\$	3,741,381	62892
TOTAL ALL BUDGET FUND GROUPS	\$	4,338,288	\$	4,338,288	62893
Section 62a. LBA LEGISLATIVE BUDGET AUDIT COMMISSION					62895

General Revenue Fund				62896
GRF 075-321 Legislative Budget	\$	500,000	\$ 500,000	62897
Audit Commission				
TOTAL GRF General Revenue Fund	\$	500,000	\$ 500,000	62898
TOTAL ALL BUDGET FUND GROUPS	\$	500,000	\$ 500,000	62899

LEGISLATIVE BUDGET AUDIT COMMISSION 62900

The foregoing appropriation item 075-321, Legislative Budget 62901
Audit Commission, shall be used for all operating expenses related 62902
to the start-up of the Commission and to the hiring of Commission 62903
staff, including, but not limited to, staff salaries, the cost of 62904
entering into a lease agreement for office space for the 62905
Commission and Commission staff and making lease payments on that 62906
office space, and the cost of procuring office furniture, computer 62907
equipment, and other office materials necessary to the normal 62908
operation of an office of an agency of the state. 62909

Section 63. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 62910

General Revenue Fund				62911
GRF 028-321 Legislative Ethics	\$	550,000	\$ 550,000	62912
Committee				
TOTAL GRF General Revenue Fund	\$	550,000	\$ 550,000	62913
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$ 550,000	62914

TRANSFER OF FUNDS TO GRF 62915

On July 1, 2003, or as soon thereafter as possible, the 62916
Director of Budget and Management shall transfer 50 per cent of 62917
the cash balance in the Joint Legislative Ethics Committee Fund 62918
(Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as 62919
soon thereafter as possible, the Director of Budget and Management 62920
shall transfer all of the remaining cash balance in the Joint 62921
Legislative Ethics Committee Fund (Fund 4G7) to the General 62922
Revenue Fund. 62923

Section 64. LSC LEGISLATIVE SERVICE COMMISSION				62924
General Revenue Fund				62925
GRF 035-321	Operating Expenses	\$ 14,065,000	\$ 14,900,000	62926
GRF 035-402	Legislative Interns	\$ 975,000	\$ 990,000	62927
GRF 035-404	Legislative Office of Education Oversight	\$ 1,205,000	\$ 1,256,427	62928
GRF 035-406	ATMS Replacement Project	\$ 20,000	\$ 20,000	62929
GRF 035-407	Legislative Task Force on Redistricting	\$ 100,000	\$ 0	62930
GRF 035-409	National Associations	\$ 430,000	\$ 441,000	62931
GRF 035-410	Legislative Information Systems	\$ 3,624,200	\$ 3,624,200	62932
TOTAL GRF	General Revenue Fund	\$ 20,419,200	\$ 21,231,627	62933
General Services Fund Group				62934
4F6 035-603	Legislative Budget Services	\$ 149,350	\$ 152,337	62935
410 035-601	Sale of Publications	\$ 25,000	\$ 25,000	62936
TOTAL GSF	General Services Fund Group	\$ 174,350	\$ 177,337	62938
TOTAL ALL BUDGET FUND GROUPS		\$ 20,593,550	\$ 21,408,964	62939
ATMS REPLACEMENT PROJECT				62940
Of the foregoing appropriation item 035-406, ATMS Replacement				62941
Project, any amounts not used for the ATMS project may be used to				62942
pay the operating expenses of the Legislative Service Commission.				62943
Section 65. LIB STATE LIBRARY BOARD				62944
General Revenue Fund				62945
GRF 350-321	Operating Expenses	\$ 6,700,721	\$ 6,700,721	62946
GRF 350-400	Ohio Public Library Information Network	\$ 0	\$ 5,000,000	62947

GRF 350-401	Ohioana Rental	\$	124,816	\$	124,816	62948
	Payments					
GRF 350-501	Cincinnati Public	\$	584,414	\$	569,803	62949
	Library					
GRF 350-502	Regional Library	\$	1,104,374	\$	1,104,374	62950
	Systems					
GRF 350-503	Cleveland Public	\$	879,042	\$	857,066	62951
	Library					
TOTAL GRF	General Revenue Fund	\$	9,393,367	\$	14,356,780	62952
	General Services Fund Group					62953
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	62954
	Charges					
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000	62955
459 350-602	Interlibrary Service	\$	2,759,661	\$	2,809,661	62956
	Charges					
TOTAL GSF	General Services					62957
	Fund Group	\$	9,218,661	\$	3,818,661	62958
	Federal Special Revenue Fund Group					62959
313 350-601	LSTA Federal	\$	5,541,647	\$	5,541,647	62960
TOTAL FED	Federal Special Revenue					62961
	Fund Group	\$	5,541,647	\$	5,541,647	62962
TOTAL ALL BUDGET FUND GROUPS		\$	24,153,675	\$	23,717,088	62963

OHIOANA RENTAL PAYMENTS 62964

The foregoing appropriation item 350-401, Ohioana Rental 62965
 Payments, shall be used to pay the rental expenses of the Martha 62966
 Kinney Cooper Ohioana Library Association pursuant to section 62967
 3375.61 of the Revised Code. 62968

REGIONAL LIBRARY SYSTEMS 62969

The foregoing appropriation item 350-502, Regional Library 62970
 Systems, shall be used to support regional library systems 62971
 eligible for funding under section 3375.90 of the Revised Code. 62972

OHIO PUBLIC LIBRARY INFORMATION NETWORK 62973

The foregoing appropriation items 350-604, OPLIN Technology, 62974
and, in fiscal year 2005, 350-400, Ohio Public Library Information 62975
Network, shall be used for an information telecommunications 62976
network linking public libraries in the state and such others as 62977
may be certified as participants by the Ohio Public Library 62978
Information Network Board. 62979

The Ohio Public Library Information Network Board shall 62980
consist of eleven members appointed by the State Library Board 62981
from among the staff of public libraries and past and present 62982
members of boards of trustees of public libraries, based on the 62983
recommendations of the Ohio library community. The Ohio Public 62984
Library Information Network Board, in consultation with the State 62985
Library, shall develop a plan of operations for the network. The 62986
board may make decisions regarding use of the foregoing OPLIN 62987
appropriation items 350-604 and may receive and expend grants to 62988
carry out the operations of the network in accordance with state 62989
law and the authority to appoint and fix the compensation of a 62990
director and necessary staff. The State Library shall be the 62991
fiscal agent for the network and shall have fiscal accountability 62992
for the expenditure of funds. The Ohio Public Library Information 62993
Network Board members shall be reimbursed for actual travel and 62994
necessary expenses incurred in carrying out their 62995
responsibilities. 62996

In order to limit access to obscene and illegal materials 62997
through internet use at Ohio Public Library Information Network 62998
(OPLIN) terminals, local libraries with OPLIN computer terminals 62999
shall adopt policies that control access to obscene and illegal 63000
materials. These policies may include use of technological systems 63001
to select or block certain internet access. The OPLIN shall 63002
condition provision of its funds, goods, and services on 63003
compliance with these policies. The OPLIN Board shall also adopt 63004

and communicate specific recommendations to local libraries on 63005
methods to control such improper usage. These methods may include 63006
each library implementing a written policy controlling such 63007
improper use of library terminals and requirements for parental 63008
involvement or written authorization for juvenile internet usage. 63009

The OPLIN Board shall research and assist or advise local 63010
libraries with regard to emerging technologies and methods that 63011
may be effective means to control access to obscene and illegal 63012
materials. The OPLIN Executive Director shall biannually provide 63013
written reports to the Governor, the Speaker and Minority Leader 63014
of the House of Representatives, and the President and Minority 63015
Leader of the Senate on any steps being taken by OPLIN and public 63016
libraries in the state to limit and control such improper usage as 63017
well as information on technological, legal, and law enforcement 63018
trends nationally and internationally affecting this area of 63019
public access and service. 63020

The Ohio Public Library Information Network, InfOhio, and 63021
OhioLink shall, to the extent feasible, coordinate and cooperate 63022
in their purchase or other acquisition of the use of electronic 63023
databases for their respective users and shall contribute funds in 63024
an equitable manner to such effort. 63025

TRANSFER TO OPLIN TECHNOLOGY FUND 63026

Notwithstanding sections 5747.03 and 5747.47 of the Revised 63027
Code and any other provision of law to the contrary, in accordance 63028
with a schedule established by the Director of Budget and 63029
Management, the Director of Budget and Management shall transfer 63030
up to \$5,000,000 in fiscal year 2004 from the Library and Local 63031
Government Support Fund (Fund 065) to the OPLIN Technology Fund 63032
(Fund 4S4). 63033

Section 66. LCO LIQUOR CONTROL COMMISSION 63034

Liquor Control Fund Group				63035
043 970-321 Operating Expenses	\$	779,886	\$ 794,387	63036
TOTAL LCF Liquor Control Fund Group	\$	779,886	\$ 794,387	63037
TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$ 794,387	63038

COMPUTER EQUIPMENT 63039

Of the foregoing appropriation item 970-321, Operating 63040
Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 63041
2005 shall be used for computer equipment. 63042

Section 67. LOT STATE LOTTERY COMMISSION 63043

State Lottery Fund Group 63044

044 950-100 Personal Services	\$	25,114,200	\$ 25,133,314	63045
044 950-200 Maintenance	\$	20,100,168	\$ 20,120,268	63046
044 950-300 Equipment	\$	3,067,250	\$ 3,113,259	63047
044 950-402 Game and Advertising	\$	68,683,000	\$ 68,683,000	63048

Contracts

044 950-500 Problem Gambling	\$	335,000	\$ 335,000	63049
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Subsidy

044 950-601 Prizes, Bonuses, and	\$	166,173,455	\$ 166,173,455	63050
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Commissions

871 950-602 Annuity Prizes	\$	162,228,451	\$ 162,185,260	63051
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TOTAL SLF State Lottery Fund 63052

Group	\$	445,701,524	\$ 445,743,556	63053
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TOTAL ALL BUDGET FUND GROUPS	\$	445,701,524	\$ 445,743,556	63054
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OPERATING EXPENSES 63055

The Controlling Board may, at the request of the State 63056
Lottery Commission, authorize additional appropriations for 63057
operating expenses of the State Lottery Commission from the State 63058
Lottery Fund up to a maximum of 15 per cent of anticipated total 63059
revenue accruing from the sale of lottery tickets. 63060

PRIZES, BONUSSES, AND COMMISSIONS 63061

Any amounts, in addition to the amounts appropriated in 63062
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 63063
are determined by the Director of the State Lottery Commission to 63064
be necessary to fund prizes, bonuses, and commissions are hereby 63065
appropriated. 63066

ANNUITY PRIZES 63067

With the approval of the Office of Budget and Management, the 63068
State Lottery Commission shall transfer cash from the State 63069
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 63070
(Fund 871) in an amount sufficient to fund deferred prizes. The 63071
Treasurer of State, from time to time, shall credit the Deferred 63072
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 63073
by the Treasurer of State on invested balances. 63074

Any amounts, in addition to the amounts appropriated in 63075
appropriation item 950-602, Annuity Prizes, that are determined by 63076
the Director of the State Lottery Commission to be necessary to 63077
fund deferred prizes and interest earnings are hereby 63078
appropriated. 63079

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 63080

The Ohio Lottery Commission shall transfer an amount greater 63081
than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 63082
in fiscal year 2005 to the Lottery Profits Education Fund. 63083
Transfers from the Commission to the Lottery Profits Education 63084
Fund shall represent the estimated net income from operations for 63085
the Commission in fiscal year 2004 or fiscal year 2005. Transfers 63086
by the Commission to the Lottery Profits Education Fund shall be 63087
administered in accordance with and pursuant to the Revised Code. 63088
The unencumbered and unallotted balances as of June 30, 2003, in 63089
the Unclaimed Prize Fund (Fund 872), are hereby transferred to the 63090
State Lottery Fund Group (Fund 044). 63091

Section 68. MED STATE MEDICAL BOARD				63092
General Services Fund Group				63093
5C6 883-609 State Medical Board	\$	7,199,162	\$ 7,302,330	63094
Operating				
TOTAL GSF General Services				63095
Fund Group	\$	7,119,162	\$ 7,302,330	63096
TOTAL ALL BUDGET FUND GROUPS	\$	7,119,162	\$ 7,302,330	63097
Section 69. DMH DEPARTMENT OF MENTAL HEALTH				63099
Division of General Administration Intragovernmental Service Fund				63100
Group				63101
151 235-601 General Administration	\$	85,181,973	\$ 85,181,973	63102
TOTAL ISF Intragovernmental				63103
Service Fund Group	\$	85,181,973	\$ 85,181,973	63104
Division of Mental Health--				63105
Psychiatric Services to Correctional Facilities				63106
General Revenue Fund				63107
GRF 332-401 Forensic Services	\$	4,152,291	\$ 4,152,291	63108
TOTAL GRF General Revenue Fund	\$	4,152,291	\$ 4,152,291	63109
TOTAL ALL BUDGET FUND GROUPS	\$	89,334,264	\$ 89,334,264	63110
FORENSIC SERVICES				63111
The foregoing appropriation item 322-401, Forensic Services,				63112
shall be used to provide psychiatric services to courts of common				63113
pleas. The appropriation shall be allocated through community				63114
mental health boards to certified community agencies and shall be				63115
distributed according to the criteria delineated in rule				63116
5122:4-1-01 of the Administrative Code. These community forensic				63117
funds may also be used to provide forensic training to community				63118
mental health boards and to forensic psychiatry residency programs				63119
in hospitals operated by the Department of Mental Health and to				63120
provide evaluations of patients of forensic status in facilities				63121

operated by the Department of Mental Health prior to conditional 63122
 release to the community. 63123

In addition, appropriation item 332-401, Forensic Services, 63124
 may be used to support projects involving mental health, substance 63125
 abuse, courts, and law enforcement to identify and develop 63126
 appropriate alternative services to institutionalization for 63127
 nonviolent mentally ill offenders, and to provide linkage to 63128
 community services for severely mentally disabled offenders 63129
 released from institutions operated by the Department of 63130
 Rehabilitation and Correction. Funds may also be utilized to 63131
 provide forensic monitoring and tracking in addition to community 63132
 programs serving persons of forensic status on conditional release 63133
 or probation. 63134

Division of Mental Health-- 63135

Administration and Statewide Programs 63136

General Revenue Fund 63137

GRF 333-321 Central Administration \$ 22,000,000 \$ 22,000,000 63138

GRF 333-402 Resident Trainees \$ 1,330,796 \$ 1,330,796 63139

GRF 333-403 Pre-Admission \$ 633,882 \$ 633,882 63140

Screening Expenses

GRF 333-415 Lease-Rental Payments \$ 25,935,650 \$ 23,206,750 63141

GRF 333-416 Research Program \$ 810,289 \$ 810,289 63142

Evaluation

TOTAL GRF General Revenue Fund \$ 50,710,617 \$ 50,710,617 63143

General Services Fund Group 63144

149 333-609 Central Office Rotary \$ 1,087,454 \$ 1,103,578 63145

- Operating

TOTAL General Services Fund Group \$ 1,087,454 \$ 1,103,578 63146

Federal Special Revenue Fund Group 63147

3A7 333-612 Social Services Block \$ 25,000 \$ 0 63148

Grant

3A8 333-613 Federal Grant - \$ 57,470 \$ 57,984 63149

		Administration				
3A9	333-614	Mental Health Block	\$	827,363	\$	835,636 63150
		Grant				
3B1	333-635	Community Medicaid	\$	4,126,430	\$	4,145,222 63151
		Expansion				
324	333-605	Medicaid/Medicare	\$	523,761	\$	514,923 63152
TOTAL Federal Special Revenue 63153						
Fund Group			\$	5,560,024	\$	5,553,765 63154
State Special Revenue Fund Group 63155						
4X5	333-607	Behavioral Health	\$	2,913,327	\$	3,000,634 63156
		Medicaid Services				
485	333-632	Mental Health	\$	134,233	\$	134,233 63157
		Operating				
5M2	333-602	PWLC Campus	\$	200,000	\$	200,000 63158
		Improvement				
TOTAL State Special Revenue 63159						
Fund Group			\$	3,247,560	\$	3,334,867 63160
TOTAL ALL BUDGET FUND GROUPS			\$	61,656,091	\$	60,394,343 63161

RESIDENCY TRAINEESHIP PROGRAMS 63162

The foregoing appropriation item 333-402, Resident Trainees, 63163
shall be used to fund training agreements entered into by the 63164
Department of Mental Health for the development of curricula and 63165
the provision of training programs to support public mental health 63166
services. 63167

PRE-ADMISSION SCREENING EXPENSES 63168

The foregoing appropriation item 333-403, Pre-Admission 63169
Screening Expenses, shall be used to pay for costs to ensure that 63170
uniform statewide methods for pre-admission screening are in place 63171
to perform assessments for persons in need of mental health 63172
services or for whom institutional placement in a hospital or in 63173
another inpatient facility is sought. Pre-admission screening 63174

includes the following activities: pre-admission assessment, 63175
 consideration of continued stay requests, discharge planning and 63176
 referral, and adjudication of appeals and grievance procedures. 63177

LEASE-RENTAL PAYMENTS 63178

The foregoing appropriation item 333-415, Lease-Rental 63179
 Payments, shall be used to meet all payments at the times they are 63180
 required to be made during the period from July 1, 2003, to June 63181
 30, 2005, by the Department of Mental Health pursuant to leases 63182
 and agreements made under section 154.20 of the Revised Code, but 63183
 limited to the aggregate amount of \$49,142,400. Nothing in this 63184
 act shall be deemed to contravene the obligation of the state to 63185
 pay, without necessity for further appropriation, from the sources 63186
 pledged thereto, the bond service charges on obligations issued 63187
 pursuant to section 154.20 of the Revised Code. 63188

Section 69.01. DIVISION OF MENTAL HEALTH - HOSPITALS 63189

General Revenue Fund 63190

GRF 334-408 Community and Hospital \$ 376,716,546 \$ 386,793,392 63191

Mental Health Services

GRF 334-506 Court Costs \$ 926,461 \$ 926,461 63192

TOTAL GRF General Revenue Fund \$ 377,643,007 \$ 387,719,853 63193

General Services Fund Group 63194

149 334-609 Hospital Rotary - \$ 22,908,053 \$ 24,408,053 63195

Operating Expenses

150 334-620 Special Education \$ 120,930 \$ 120,930 63196

TOTAL GSF General Services 63197

Fund Group \$ 23,028,983 \$ 24,528,983 63198

Federal Special Revenue Fund Group 63199

3B0 334-617 Elementary and \$ 248,644 \$ 251,866 63200

Secondary Education

Act

3B1	334-635	Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000	63201
324	334-605	Medicaid/Medicare	\$	10,484,944	\$	10,916,925	63202
TOTAL FED Federal Special Revenue							63203
Fund Group			\$	12,733,588	\$	13,168,791	63204
State Special Revenue Fund Group							63205
485	334-632	Mental Health Operating	\$	2,387,253	\$	2,476,297	63206
5L2	334-619	Health Foundation/Greater Cincinnati	\$	26,000	\$	0	63207
692	334-636	Community Mental Health Board Risk Fund	\$	100,000	\$	100,000	63208
TOTAL SSR State Special Revenue							63209
Fund Group			\$	2,487,253	\$	2,576,297	63210
TOTAL ALL BUDGET FUND GROUPS			\$	415,892,831	\$	427,067,463	63211
COMMUNITY MENTAL HEALTH BOARD RISK FUND							63212
The foregoing appropriation item 334-636, Community Mental							63213
Health Board Risk Fund, shall be used to make payments pursuant to							63214
section 5119.62 of the Revised Code.							63215
Section 69.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT							63216
SERVICES							63217
General Revenue Fund							63218
GRF	335-419	Community Medication Subsidy	\$	7,509,010	\$	7,509,010	63219
GRF	335-505	Local MH Systems of Care	\$	89,687,868	\$	89,687,868	63220
TOTAL GRF General Revenue Fund			\$	97,196,878	\$	97,196,878	63221
General Services Fund Group							63222
4P9	335-604	Community Mental	\$	200,000	\$	200,000	63223

Health Projects			
TOTAL GSF General Services			63224
Fund Group	\$	200,000	\$ 200,000 63225
Federal Special Revenue Fund Group			63226
3A7 335-612 Social Services Block	\$	9,314,108	\$ 9,314,108 63227
Grant			
3A8 335-613 Federal Grant -	\$	1,717,040	\$ 1,717,040 63228
Community Mental			
Health Board Subsidy			
3A9 335-614 Mental Health Block	\$	16,887,218	\$ 17,056,090 63229
Grant			
3B1 335-635 Community Medicaid	\$	220,472,136	\$ 237,766,721 63230
Expansion			
TOTAL FED Federal Special Revenue	\$	248,390,502	\$ 265,853,959 63231
Fund Group			
State Special Revenue Fund Group			63232
632 335-616 Community Capital	\$	250,000	\$ 250,000 63233
Replacement			
TOTAL SSR State Special Revenue	\$	250,000	\$ 250,000 63234
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$	346,037,380	\$ 363,500,837 63235
DEPARTMENT TOTAL			63236
GENERAL REVENUE FUND	\$	529,702,793	\$ 537,050,739 63237
DEPARTMENT TOTAL			63238
GENERAL SERVICES FUND GROUP	\$	24,316,437	\$ 25,832,561 63239
DEPARTMENT TOTAL			63240
FEDERAL SPECIAL REVENUE			63241
FUND GROUP	\$	266,684,114	\$ 284,576,515 63242
DEPARTMENT TOTAL			63243
STATE SPECIAL REVENUE FUND GROUP	\$	6,010,813	\$ 6,161,164 63244
DEPARTMENT TOTAL			63245
INTRAGOVERNMENTAL FUND GROUP	\$	85,181,973	\$ 85,181,973 63246

Section 70.01. GENERAL ADMINISTRATION AND STATEWIDE SERVICES				63277
General Revenue Fund				63278
GRF 320-321 Central Administration	\$	9,174,390	\$ 9,174,390	63279
GRF 320-412 Protective Services	\$	1,420,658	\$ 1,420,658	63280
GRF 320-415 Lease-Rental Payments	\$	25,935,650	\$ 23,206,750	63281
TOTAL GRF General Revenue Fund	\$	36,530,698	\$ 33,801,798	63282
General Services Fund Group				63283
4B5 320-640 Conference/Training	\$	400,000	\$ 400,000	63284
TOTAL GSF General Services				63285
Fund Group	\$	400,000	\$ 400,000	63286
Federal Special Revenue Fund Group				63287
3A4 320-605 Administrative Support	\$	12,492,892	\$ 12,492,892	63288
3A5 320-613 DD Council Operating	\$	861,000	\$ 861,000	63289
Expenses				63290
325 320-634 Protective Services	\$	100,000	\$ 100,000	63291
TOTAL FED Federal Special Revenue				63292
Fund Group	\$	13,453,892	\$ 13,453,892	63293
State Special Revenue Fund Group				63294
5S2 590-622 Medicaid	\$	2,969,552	\$ 2,969,552	63295
Administration &				
Oversight				
TOTAL SSR State Special Revenue				63296
Fund Group	\$	2,969,552	\$ 2,969,552	63297
TOTAL ALL GENERAL ADMINISTRATION				63298
AND STATEWIDE SERVICES				63299
BUDGET FUND GROUPS	\$	53,354,142	\$ 50,625,242	63300
LEASE-RENTAL PAYMENTS				63301
The foregoing appropriation item 320-415, Lease-Rental				63302
Payments, shall be used to meet all payments at the times they are				63303
required to be made during the period from July 1, 2003, to June				63304

30, 2005, by the Department of Mental Retardation and 63305
 Developmental Disabilities pursuant to leases and agreements made 63306
 under section 154.20 of the Revised Code, but limited to the 63307
 aggregate amount of \$49,142,400. Nothing in this act shall be 63308
 deemed to contravene the obligation of the state to pay, without 63309
 necessity for further appropriation, from the sources pledged 63310
 thereto, the bond service charges on obligations issued pursuant 63311
 to section 154.20 of the Revised Code. 63312

Section 70.02. COMMUNITY SERVICES 63313

General Revenue Fund 63314

GRF 322-405 State Use Program \$ 242,004 \$ 242,004 63315

GRF 322-413 Residential and \$ 8,439,337 \$ 8,439,337 63316

Support Services

GRF 322-416 Waiver State Match \$ 95,695,198 \$ 100,019,747 63317

GRF 322-417 Supported Living \$ 43,179,715 \$ 43,179,715 63318

GRF 322-451 Family Support \$ 6,801,473 \$ 6,801,473 63319

Services

GRF 322-452 Service and Support \$ 8,628,481 \$ 8,628,481 63320

Administration

GRF 322-501 County Boards \$ 31,795,691 \$ 31,795,691 63321

Subsidies

GRF 322-503 Tax Equity \$ 14,000,000 \$ 14,000,000 63322

TOTAL GRF General Revenue Fund \$ 208,781,899 \$ 213,106,448 63323

General Services Fund Group 63324

4J6 322-645 Intersystem Services \$ 3,300,000 \$ 3,300,000 63325

for Children

4U4 322-606 Community MR and DD \$ 300,000 \$ 300,000 63326

Trust

4V1 322-611 Program Support \$ 610,000 \$ 625,000 63327

488 322-603 Residential Services \$ 1,000,000 \$ 1,000,000 63328

Refund

TOTAL GSF General Services				63329
Fund Group	\$	5,210,000	\$ 5,225,000	63330
Federal Special Revenue Fund Group				63331
3A4 322-605 Community Program	\$	1,000,000	\$ 1,000,000	63332
Support				
3A4 322-610 Community Residential	\$	500,000	\$ 500,000	63333
Support				
3A5 322-613 DD Council Grants	\$	3,130,000	\$ 3,130,000	63334
3G6 322-639 Medicaid Waiver	\$	344,068,714	\$ 373,772,814	63335
3M7 322-650 CAFS Medicaid	\$	254,739,737	\$ 267,668,087	63336
325 322-608 Federal Grants -	\$	2,023,587	\$ 1,833,815	63337
Operating Expenses				63338
325 322-612 Social Service Block	\$	10,319,346	\$ 10,330,830	63339
Grant				63340
325 322-617 Education Grants -	\$	75,500	\$ 75,500	63341
Operating				63342
TOTAL FED Federal Special Revenue				63343
Fund Group	\$	615,856,884	\$ 658,311,046	63344
State Special Revenue Fund Group				63345
4K8 322-604 Waiver - Match	\$	12,000,000	\$ 12,000,000	63346
5H0 322-619 Medicaid Repayment	\$	25,000	\$ 25,000	63347
TOTAL SSR State Special Revenue				63348
Fund Group	\$	12,025,000	\$ 12,025,000	63349
TOTAL ALL COMMUNITY SERVICES				63350
BUDGET FUND GROUPS	\$	841,873,783	\$ 888,667,494	63351
RESIDENTIAL AND SUPPORT SERVICES				63352
The Department of Mental Retardation and Developmental				63353
Disabilities may designate a portion of appropriation item				63354
322-413, Residential and Support Services, for the following:				63355
(A) Sermak Class Services used to implement the requirements				63356
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,				63357

Case No. c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division; 63358
63359

(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. 63360
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WAIVER STATE MATCH 63365

The purposes for which the foregoing appropriation item 322-416, Waiver State Match, shall be used include the following: 63366
63367

(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. 63368
63369
63370

(B) Services contracted by county boards of mental retardation and developmental disabilities. 63371
63372

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 retardation and developmental disabilities that have greater need for various residential and support services due to a low percentage of residential and support services development in comparison to the number of individuals with mental retardation or developmental disabilities in the county. 63373
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SUPPORTED LIVING 63381

The purposes for which the foregoing appropriation item 322-417, Supported Living, shall be used include supported living services contracted by county boards of mental retardation and developmental disabilities in accordance with sections 5126.40 to 5126.47 of the Revised Code. 63382
63383
63384
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63386

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 63387

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 63388
the Department of Mental Retardation and Developmental 63389
Disabilities may develop residential and support service programs 63390
funded by appropriation item 322-413, Residential and Support 63391
Services, appropriation item 322-416, Waiver State Match, or 63392
appropriation item 322-417, Supported Living, that enable persons 63393
with mental retardation and developmental disabilities to live in 63394
the community. Notwithstanding Chapter 5121. and section 5123.122 63395
of the Revised Code, the department may waive the support 63396
collection requirements of those statutes for persons in community 63397
programs developed by the department under this section. The 63398
department shall adopt rules under Chapter 119. of the Revised 63399
Code or may use existing rules for the implementation of these 63400
programs. 63401

FAMILY SUPPORT SERVICES 63402

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 63403
5126.11 of the Revised Code, the Department of Mental Retardation 63404
and Developmental Disabilities may implement programs funded by 63405
appropriation item 322-451, Family Support Services, to provide 63406
assistance to persons with mental retardation or developmental 63407
disabilities and their families who are living in the community. 63408
The department shall adopt rules to implement these programs. 63409

SERVICE AND SUPPORT ADMINISTRATION 63410

The foregoing appropriation item 322-452, Service and Support 63411
Administration, shall be allocated to county boards of mental 63412
retardation and developmental disabilities for the purpose of 63413
providing service and support administration services and to 63414
assist in bringing state funding for all department-approved 63415
service and support administrators within county boards of mental 63416
retardation and developmental disabilities to the level authorized 63417
in division (C) of section 5126.15 of the Revised Code. The 63418

department may request approval from the Controlling Board to 63419
transfer any unobligated appropriation authority from other state 63420
General Revenue Fund appropriation items within the department's 63421
budget to appropriation item 322-452, Service and Support 63422
Administration, to be used to meet the statutory funding level in 63423
division (C) of section 5126.15 of the Revised Code. 63424

Notwithstanding division (C) of section 5126.15 of the 63425
Revised Code and subject to funding in appropriation item 322-452, 63426
Service and Support Administration, no county may receive less 63427
than its allocation in fiscal year 1995. Wherever case management 63428
services are referred to in any law, contract, or other document, 63429
the reference shall be deemed to refer to service and support 63430
administration. No action or proceeding pending on the effective 63431
date of this section is affected by the renaming of case 63432
management services as service and support administration. 63433

The Department of Mental Retardation and Developmental 63434
Disabilities shall adopt, amend, and rescind rules as necessary to 63435
reflect the renaming of case management services as service and 63436
support administration. All boards of mental retardation and 63437
developmental disabilities and the entities with which they 63438
contract for services shall rename the titles of their employees 63439
who provide service and support administration. All boards and 63440
contracting entities shall make corresponding changes to all 63441
employment contracts. 63442

STATE SUBSIDIES TO MR/DD BOARDS 63443

The foregoing appropriation item 322-501, County Boards 63444
Subsidies, shall be distributed to county boards of mental 63445
retardation and developmental disabilities pursuant to section 63446
5126.12 of the Revised Code to the limit of the lesser of the 63447
amount required by that section or the appropriation in 63448
appropriation item 322-501 prorated to all county boards of mental 63449
retardation and developmental disabilities. 63450

TAX EQUITY 63451

The foregoing appropriation item 322-503, Tax Equity, shall 63452
be used to fund the tax equalization program created under section 63453
5126.18 of the Revised Code for county boards of mental 63454
retardation and developmental disabilities. 63455

INTERSYSTEM SERVICES FOR CHILDREN 63456

The foregoing appropriation item 322-645, Intersystem 63457
Services for Children, shall be used to support direct grants to 63458
county family and children first councils created under section 63459
121.37 of the Revised Code. The funds shall be used as partial 63460
support payment and reimbursement for locally coordinated 63461
treatment plans for multi-needs children that come to the 63462
attention of the Family and Children First Cabinet Council 63463
pursuant to section 121.37 of the Revised Code. The Department of 63464
Mental Retardation and Developmental Disabilities may use up to 63465
five per cent of this amount for administrative expenses 63466
associated with the distribution of funds to the county councils. 63467

WAIVER - MATCH 63468

The foregoing appropriation item 322-604, Waiver-Match (Fund 63469
4K8), shall be used as state matching funds for the home and 63470
community-based waivers. 63471

Section 70.03. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A 63472
MODEL BILLING FOR SERVICES RENDERED 63473

Developmental centers of the Department of Mental Retardation 63474
and Developmental Disabilities may provide services to persons 63475
with mental retardation or developmental disabilities living in 63476
the community or to providers of services to these persons. The 63477
department may develop a methodology for recovery of all costs 63478
associated with the provisions of these services. 63479

Section 70.04.	TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER			63480
	PHARMACY PROGRAMS			63481
	Beginning July 1, 2003, the Department of Mental Retardation			63482
	and Developmental Disabilities shall pay the Department of Job and			63483
	Family Services quarterly, through intrastate transfer voucher,			63484
	the nonfederal share of Medicaid prescription drug claim costs for			63485
	all developmental centers paid by the Department of Job and Family			63486
	Services.			63487
Section 70.05.	RESIDENTIAL FACILITIES			63488
	General Revenue Fund			63489
GRF 323-321	Residential Facilities	\$ 103,402,750	\$ 104,634,635	63490
	Operations			63491
TOTAL GRF	General Revenue Fund	\$ 103,402,750	\$ 104,634,635	63492
	General Services Fund Group			63493
152 323-609	Residential Facilities	\$ 912,177	\$ 912,177	63494
	Support			63495
TOTAL GSF	General Services			63496
	Fund Group	\$ 912,177	\$ 912,177	63497
	Federal Special Revenue Fund Group			63498
3A4 323-605	Residential Facilities	\$ 128,736,729	\$ 128,831,708	63499
	Reimbursement			63500
325 323-608	Federal Grants -	\$ 571,381	\$ 582,809	63501
	Subsidies			63502
325 323-617	Education Grants -	\$ 425,000	\$ 425,000	63503
	Residential Facilities			63504
TOTAL FED	Federal Special Revenue			63505
	Fund Group	\$ 129,733,110	\$ 129,839,517	63506
	State Special Revenue Fund Group			63507
489 323-632	Operating Expense	\$ 12,125,628	\$ 12,125,628	63508
TOTAL SSR	State Special Revenue			63509

Fund Group	\$	12,125,628	\$	12,125,628	63510
TOTAL ALL RESIDENTIAL FACILITIES					63511
BUDGET FUND GROUPS	\$	246,173,665	\$	247,511,957	63512
DEPARTMENT TOTAL					63513
GENERAL REVENUE FUND	\$	348,715,347	\$	351,542,881	63514
DEPARTMENT TOTAL					63515
GENERAL SERVICES FUND GROUP	\$	6,522,177	\$	6,537,177	63516
DEPARTMENT TOTAL					63517
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$	801,604,455	63518
DEPARTMENT TOTAL					63519
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$	27,120,180	63520
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES					63521
	\$	1,141,401,590	\$	1,186,804,693	63522
(A) The Executive Branch Committee on Medicaid Redesign and Expansion of MRDD Services, as established by Am. Sub. H.B. 94 of the 124th General Assembly, shall continue and consist of all of the following individuals:					63524
(1) One representative of the Governor appointed by the Governor;					63525
(2) Two representatives of the Department of Mental Retardation and Developmental Disabilities appointed by the Director of Mental Retardation and Developmental Disabilities;					63526
(3) Two representatives of the Department of Job and Family Services appointed by the Director of Job and Family Services;					63527
(4) One representative of the Office of Budget and Management appointed by the Director of Budget and Management;					63528
(5) One representative of The Arc of Ohio appointed by the organization's board of trustees;					63529
(6) One representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities					63530

appointed by the association's board of trustees; 63541

(7) One representative of the Ohio Superintendents of County 63542
Boards of Mental Retardation and Developmental Disabilities 63543
appointed by the organization's board of trustees; 63544

(8) One representative of the Ohio Provider Resource 63545
Association appointed by the association's board of trustees; 63546

(9) One representative of the Ohio Health Care Association 63547
appointed by the association's board of trustees; 63548

(10) One representative of individuals with mental 63549
retardation or other developmental disability appointed by the 63550
Director of Mental Retardation and Developmental Disabilities. 63551

(B) The Governor shall appoint the chairperson of the 63552
committee. Members of the committee shall serve without 63553
compensation or reimbursement, except to the extent that serving 63554
on the committee is considered a part of their regular employment 63555
duties. 63556

(C) The committee shall meet at times determined by the 63557
chairperson to do all of the following: 63558

(1) Review the effect that the provisions of this act 63559
regarding Medicaid funding for services to individuals with mental 63560
retardation or other developmental disability have on the funding 63561
and provision of services to such individuals; 63562

(2) Identify issues related to, and barriers to, the 63563
effective implementation of those provisions of this act with the 63564
goal of meeting the needs of individuals with mental retardation 63565
or other developmental disability; 63566

(3) Establish effective means for resolving the issues and 63567
barriers, including advocating changes to state law, rules, or 63568
both. 63569

(D) The committee shall submit a final report to the Governor 63570

and Directors of Mental Retardation and Developmental Disabilities 63571
and Job and Family Services and shall cease to exist on submission 63572
of the final report unless the Governor issues an executive order 63573
providing for the committee to continue. 63574

Section 71. MIH COMMISSION ON MINORITY HEALTH 63575

General Revenue Fund 63576

GRF 149-321 Operating Expenses \$ 539,318 \$ 539,318 63577

GRF 149-501 Minority Health Grants \$ 751,478 \$ 751,478 63578

GRF 149-502 Lupus Program \$ 141,556 \$ 141,556 63579

TOTAL GRF General Revenue Fund \$ 1,432,352 \$ 1,432,352 63580

Federal Special Revenue Fund Group 63581

3J9 149-602 Federal Grants \$ 150,000 \$ 150,000 63582

TOTAL FED Federal Special Revenue 63583

Fund Group \$ 150,000 \$ 150,000 63584

State Special Revenue Fund Group 63585

4C2 149-601 Minority Health \$ 150,000 \$ 150,000 63586

Conference

TOTAL SSR State Special Revenue 63587

Fund Group \$ 150,000 \$ 150,000 63588

TOTAL ALL BUDGET FUND GROUPS \$ 1,732,352 \$ 1,732,352 63589

LUPUS PROGRAM 63590

The foregoing appropriation item 149-502, Lupus Program, 63591

shall be used to provide grants for programs in patient, public, 63592

and professional education on the subject of systemic lupus 63593

erythematosus; to encourage and develop local centers on lupus 63594

information gathering and screening; and to provide outreach to 63595

minority women. 63596

Section 72. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION 63597

BOARD 63598

General Service Fund Group				63599
5H9 865-609 Operating Expenses	\$	285,497	\$ 314,422	63600
TOTAL GSF General Services				63601
Fund Group	\$	285,497	\$ 314,422	63602
TOTAL ALL BUDGET FUND GROUPS	\$	285,497	\$ 314,422	63603

Section 73. DNR DEPARTMENT OF NATURAL RESOURCES 63605

General Revenue Fund				63606
GRF 725-404 Fountain Square Rental	\$	1,093,300	\$ 1,094,800	63607
Payments - OBA				
GRF 725-407 Conservation Reserve	\$	1,218,750	\$ 1,218,750	63608
Enhancement Program				
GRF 725-412 Reclamation Commission	\$	57,934	\$ 57,934	63609
GRF 725-413 OPFC Lease Rental	\$	15,066,500	\$ 17,709,500	63610
Payments				
GRF 725-423 Stream and Ground	\$	331,819	\$ 331,819	63611
Water Gauging				
GRF 725-425 Wildlife License	\$	605,000	\$ 605,000	63612
Reimbursement				
GRF 725-456 Canal Lands	\$	332,859	\$ 332,859	63613
GRF 725-502 Soil and Water	\$	11,182,024	\$ 11,475,507	63614
Districts				
GRF 725-903 Natural Resources	\$	23,808,300	\$ 26,914,300	63615
General Obligation				
Debt Service				
GRF 727-321 Division of Forestry	\$	9,068,735	\$ 9,068,735	63616
GRF 728-321 Division of Geological	\$	1,980,135	\$ 1,991,163	63617
Survey				
GRF 729-321 Office of Information	\$	440,895	\$ 440,895	63618
Technology				
GRF 730-321 Division of Parks and	\$	33,443,524	\$ 34,772,812	63619
Recreation				

GRF 733-321	Division of Water	\$	3,355,830	\$	3,237,619	63620
GRF 736-321	Division of Engineering	\$	3,410,852	\$	3,436,918	63621
GRF 737-321	Division of Soil and Water	\$	3,995,288	\$	4,014,788	63622
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781	63623
GRF 741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405	63624
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967	63625
TOTAL GRF	General Revenue Fund	\$	118,257,925	\$	125,635,552	63626
General Services Fund Group						63627
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337	63628
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094	63629
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240	63630
204 725-687	Information Services	\$	3,384,275	\$	3,476,627	63631
206 725-689	REALM Support Services	\$	475,000	\$	475,000	63632
207 725-690	Real Estate Services	\$	54,000	\$	54,000	63633
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000	63634
4S9 725-622	NatureWorks Personnel	\$	908,516	\$	983,103	63635
4X8 725-662	Water Resources Council	\$	282,524	\$	282,524	63636
430 725-671	Canal Lands	\$	1,119,834	\$	1,059,056	63637
508 725-684	Natural Resources Publication Center Interstate	\$	209,364	\$	215,626	63638
510 725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849	63639
516 725-620	Water Management	\$	3,663,849	\$	2,342,814	63640

635	725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199	63641
697	725-670	Submerged Lands	\$	507,099	\$	542,011	63642
TOTAL GSF General Services							63643
Fund Group			\$	26,995,270	\$	26,676,480	63644
Federal Special Revenue Fund Group							63645
3B3	725-640	Federal Forest Pass-Thru	\$	140,000	\$	150,000	63646
3B4	725-641	Federal Flood Pass-Thru	\$	280,000	\$	285,000	63647
3B5	725-645	Federal Abandoned Mine Lands	\$	11,922,845	\$	11,843,866	63648
3B6	725-653	Federal Land and Water Conservation Grants	\$	4,900,000	\$	5,000,000	63649
3B7	725-654	Reclamation - Regulatory	\$	2,179,870	\$	2,168,413	63650
3P0	725-630	Natural Areas and Preserves - Federal	\$	718,876	\$	552,480	63651
3P1	725-632	Geological Survey - Federal	\$	470,780	\$	479,653	63652
3P2	725-642	Oil and Gas-Federal	\$	224,537	\$	232,964	63653
3P3	725-650	Real Estate and Land Management - Federal	\$	2,357,000	\$	2,357,000	63654
3P4	725-660	Water - Federal	\$	300,000	\$	242,000	63655
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	792,028	\$	837,223	63656
3Z5	725-657	REALM Federal	\$	1,578,871	\$	1,578,871	63657
328	725-603	Forestry Federal	\$	1,530,561	\$	1,484,531	63658
332	725-669	Federal Mine Safety Grant	\$	247,364	\$	258,103	63659
TOTAL FED Federal Special Revenue							63660
Fund Group			\$	27,642,732	\$	27,470,104	63661

State Special Revenue Fund Group				63662
4J2 725-628 Injection Well Review	\$	98,468	\$ 81,188	63663
4M7 725-631 Wildfire Suppression	\$	50,000	\$ 100,000	63664
4U6 725-668 Scenic Rivers	\$	561,000	\$ 617,100	63665
Protection				
5B3 725-674 Mining Regulation	\$	35,000	\$ 35,000	63666
5K1 725-626 Urban Forestry Grant	\$	400,000	\$ 400,000	63667
5P2 725-634 Wildlife Boater Angler	\$	1,500,000	\$ 1,500,000	63668
Administration				
509 725-602 State Forest	\$	982,970	\$ 1,127,117	63669
511 725-646 Ohio Geologic Mapping	\$	983,274	\$ 985,940	63670
512 725-605 State Parks Operations	\$	29,915,146	\$ 29,915,146	63671
514 725-606 Lake Erie Shoreline	\$	1,027,093	\$ 936,254	63672
518 725-643 Oil and Gas Permit	\$	2,205,651	\$ 2,399,580	63673
Fees				
518 725-677 Oil and Gas Well	\$	1,000,000	\$ 1,000,000	63674
Plugging				
521 725-627 Off-Road Vehicle	\$	118,490	\$ 123,490	63675
Trails				
522 725-656 Natural Areas Checkoff	\$	2,046,737	\$ 1,550,670	63676
Funds				
526 725-610 Strip Mining	\$	1,449,459	\$ 1,449,459	63677
Administration Fees				
527 725-637 Surface Mining	\$	2,793,938	\$ 2,693,938	63678
Administration				
529 725-639 Unreclaimed Land Fund	\$	1,841,589	\$ 1,971,037	63679
531 725-648 Reclamation Forfeiture	\$	2,393,762	\$ 2,374,087	63680
532 725-644 Litter Control and	\$	12,544,686	\$ 12,544,686	63681
Recycling				
586 725-633 Scrap Tire Program	\$	1,000,000	\$ 1,000,000	63682
615 725-661 Dam Safety	\$	286,045	\$ 408,223	63683
TOTAL SSR State Special Revenue				63684
Fund Group	\$	63,233,308	\$ 63,212,915	63685

Clean Ohio Fund Group				63686
061 725-405 Clean Ohio Operating	\$	155,000	\$ 155,000	63687
TOTAL CLR Clean Ohio Fund Group	\$	155,000	\$ 155,000	63688
Wildlife Fund Group				63689
015 740-401 Division of Wildlife	\$	46,000,000	\$ 46,000,000	63690
Conservation				
815 725-636 Cooperative Management	\$	120,449	\$ 120,449	63691
Projects				
816 725-649 Wetlands Habitat	\$	966,885	\$ 966,885	63692
817 725-655 Wildlife Conservation	\$	5,000,000	\$ 5,000,000	63693
Checkoff Fund				
818 725-629 Cooperative Fisheries	\$	988,582	\$ 988,582	63694
Research				
819 725-685 Ohio River Management	\$	128,584	\$ 128,584	63695
TOTAL WLF Wildlife Fund Group	\$	53,204,500	\$ 53,204,500	63696
Waterways Safety Fund Group				63697
086 725-414 Waterways Improvement	\$	3,813,051	\$ 4,140,186	63698
086 725-418 Buoy Placement	\$	42,182	\$ 42,182	63699
086 725-501 Waterway Safety Grants	\$	137,867	\$ 137,867	63700
086 725-506 Watercraft Marine	\$	576,153	\$ 576,153	63701
Patrol				
086 725-513 Watercraft Educational	\$	366,643	\$ 366,643	63702
Grants				
086 739-401 Division of Watercraft	\$	19,201,158	\$ 18,299,158	63703
TOTAL WSF Waterways Safety Fund				63704
Group	\$	24,137,054	\$ 23,562,189	63705
Holding Account Redistribution Fund Group				63706
R17 725-659 Performance Cash Bond	\$	226,500	\$ 226,500	63707
Refunds				
R43 725-624 Forestry	\$	800,000	\$ 800,000	63708
TOTAL 090 Holding Account				63709
Redistribution Fund Group	\$	1,026,500	\$ 1,026,500	63710

Accrued Leave Liability Fund Group				63711
4M8 725-675 FOP Contract	\$	20,844	\$ 20,844	63712
TOTAL ALF Accrued Leave				63713
Liability Fund Group	\$	20,844	\$ 20,844	63714
TOTAL ALL BUDGET FUND GROUPS	\$	314,673,133	\$ 320,964,084	63715

Section 73.01. FOUNTAIN SQUARE 63717

The foregoing appropriation item 725-404, Fountain Square 63718
Rental Payments - OBA, shall be used by the Department of Natural 63719
Resources to meet all payments required to be made to the Ohio 63720
Building Authority during the period from July 1, 2003, to June 63721
30, 2005, pursuant to leases and agreements with the Ohio Building 63722
Authority under section 152.241 of the Revised Code, but limited 63723
to the aggregate amount of \$2,188,100. 63724

The Director of Natural Resources, using intrastate transfer 63725
vouchers, shall make payments to the General Revenue Fund from 63726
funds other than the General Revenue Fund to reimburse the General 63727
Revenue Fund for the other funds' shares of the lease rental 63728
payments to the Ohio Building Authority. The transfers from the 63729
non-General Revenue funds shall be made within 10 days of the 63730
payment to the Ohio Building Authority for the actual amounts 63731
necessary to fulfill the leases and agreements pursuant to section 63732
152.241 of the Revised Code. 63733

The foregoing appropriation item 725-664, Fountain Square 63734
Facilities Management (Fund 635), shall be used for payment of 63735
repairs, renovation, utilities, property management, and building 63736
maintenance expenses for the Fountain Square Complex. Cash 63737
transferred by intrastate transfer vouchers from various 63738
department funds and rental income received by the Department of 63739
Natural Resources shall be deposited into the Fountain Square 63740
Facilities Management Fund (Fund 635). 63741

LEASE RENTAL PAYMENTS 63742

The foregoing appropriation item 725-413, OPFC Lease Rental 63743
Payments, shall be used to meet all payments at the times they are 63744
required to be made during the period from July 1, 2003, to June 63745
30, 2005, by the Department of Natural Resources pursuant to 63746
leases and agreements made under section 154.22 of the Revised 63747
Code, but limited to the aggregate amount of \$32,776,000. Nothing 63748
in this act shall be deemed to contravene the obligation of the 63749
state to pay, without necessity for further appropriation, from 63750
the sources pledged thereto, the bond service charges on 63751
obligations issued pursuant to section 154.22 of the Revised Code. 63752

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 63753

The foregoing appropriation item 725-903, Natural Resources 63754
General Obligation Debt Service, shall be used to pay all debt 63755
service and related financing costs at the times they are required 63756
to be made pursuant to sections 151.01 and 151.05 of the Revised 63757
Code during the period from July 1, 2003, to June 30, 2005. The 63758
Office of the Sinking Fund or the Director of Budget and 63759
Management shall effectuate the required payments by an intrastate 63760
transfer voucher. 63761

Section 73.02. WILDLIFE LICENSE REIMBURSEMENT 63762

Notwithstanding the limits of the transfer from the General 63763
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 63764
of the Revised Code, up to the amount available in appropriation 63765
item 725-425, Wildlife License Reimbursement, may be transferred 63766
from the General Revenue Fund to the Wildlife Fund (Fund 015). 63767
Pursuant to the certification of the Director of Budget and 63768
Management of the amount of foregone revenue in accordance with 63769
section 1533.15 of the Revised Code, the foregoing appropriation 63770
item in the General Revenue Fund, appropriation item 725-425, 63771

Wildlife License Reimbursement, shall be used to reimburse the 63772
Wildlife Fund (Fund 015) for the cost of hunting and fishing 63773
licenses and permits issued after June 30, 1990, to individuals 63774
who are exempted under the Revised Code from license, permit, and 63775
stamp fees. 63776

CANAL LANDS 63777

The foregoing appropriation item 725-456, Canal Lands, shall 63778
be used to transfer funds to the Canal Lands Fund (Fund 430) to 63779
provide operating expenses for the State Canal Lands Program. The 63780
transfer shall be made using an intrastate transfer voucher and 63781
shall be subject to the approval of the Director of Budget and 63782
Management. 63783

SOIL AND WATER DISTRICTS 63784

In addition to state payments to soil and water conservation 63785
districts authorized by section 1515.10 of the Revised Code, the 63786
Department of Natural Resources may pay to any soil and water 63787
conservation district, from authority in appropriation item 63788
725-502, Soil and Water Districts, an annual amount not to exceed 63789
\$30,000, upon receipt of a request and justification from the 63790
district and approval by the Ohio Soil and Water Conservation 63791
Commission. The county auditor shall credit the payments to the 63792
special fund established under section 1515.10 of the Revised Code 63793
for the local soil and water conservation district. Moneys 63794
received by each district shall be expended for the purposes of 63795
the district. 63796

Of the foregoing appropriation item 725-502, Soil and Water 63797
Districts, \$120,000 shall be earmarked in fiscal year 2004 for the 63798
Franklin County Soil and Water District. 63799

Of the foregoing appropriation item 725-502, Soil and Water 63800
Districts, \$175,000 shall be earmarked in fiscal year 2004 for the 63801
Indian Lake Watershed. 63802

Of the foregoing appropriation item 725-502, Soil and Water 63803
Districts, \$50,000 shall be earmarked for the Rush Creek Watershed 63804
in each fiscal year. 63805

Of the foregoing appropriation item 725-502, Soil and Water 63806
Districts, \$28,000 shall be earmarked for the Conservation Action 63807
Program in each fiscal year. 63808

Of the foregoing appropriation item 725-502, Soil and Water 63809
Districts, \$150,000 each fiscal year shall be earmarked for the 63810
Muskingum Conservancy District. 63811

Of the foregoing appropriation item 725-502, Soil and Water 63812
Districts, \$120,000 each fiscal year shall be earmarked for the 63813
relocation of Route 30. 63814

FUND CONSOLIDATION 63815

On July 15, 2003, or as soon thereafter as possible, the 63816
Director of Budget and Management shall transfer the cash balance 63817
as certified by the Director of Natural Resources from the Real 63818
Estate and Land Management-Federal Fund (Fund 3P3) to the 63819
REALM-Federal Fund (Fund 325). The Director shall cancel any 63820
remaining outstanding encumbrances against appropriation item 63821
725-650, Real Estate and Land Management-Federal, that are 63822
associated with the REALM federal programs and reestablish them 63823
against appropriation item 725-657, REALM-Federal. The amounts of 63824
any encumbrances canceled and reestablished are hereby 63825
appropriated. 63826

OIL AND GAS WELL PLUGGING 63827

The foregoing appropriation item 725-677, Oil and Gas Well 63828
Plugging, shall be used exclusively for the purposes of plugging 63829
wells and to properly restore the land surface of idle and orphan 63830
oil and gas wells pursuant to section 1509.071 of the Revised 63831
Code. No funds from the appropriation item shall be used for 63832

salaries, maintenance, equipment, or other administrative 63833
purposes, except for those costs directly attributed to the 63834
plugging of an idle or orphan well. Appropriation authority from 63835
this appropriation item shall not be transferred to any other fund 63836
or line item. 63837

CLEAN OHIO OPERATING EXPENSES 63838

The foregoing appropriation item 725-405, Clean Ohio 63839
Operating, shall be used by the Department of Natural Resources in 63840
administering section 1519.05 of the Revised Code. 63841

WATERCRAFT MARINE PATROL 63842

Of the foregoing appropriation item 739-401, Division of 63843
Watercraft, not more than \$200,000 in each fiscal year shall be 63844
expended for the purchase of equipment for marine patrols 63845
qualifying for funding from the Department of Natural Resources 63846
pursuant to section 1547.67 of the Revised Code. Proposals for 63847
equipment shall accompany the submission of documentation for 63848
receipt of a marine patrol subsidy pursuant to section 1547.67 of 63849
the Revised Code and shall be loaned to eligible marine patrols 63850
pursuant to a cooperative agreement between the Department of 63851
Natural Resources and the eligible marine patrol. 63852

ELIMINATION OF CIVILIAN CONSERVATION CORPS 63853

Upon the closure of the Division of Civilian Conservation, 63854
the Director of Natural Resources, not later than June 30, 2004, 63855
shall distribute, allocate, salvage, or transfer all assets, 63856
equipment, supplies, and cash balances of the Division of Civilian 63857
Conservation to other operating divisions of the Department of 63858
Natural Resources as determined by the director. The director 63859
shall maintain a record of such disposition of all assets. 63860

The director shall maintain balances within the Civilian 63861
Conservation Corps Fund to pay all outstanding obligations, 63862
including unemployment and other costs associated with the orderly 63863

closure of the Division of Civilian Conservation. All amounts 63864
necessary for the orderly closure are hereby appropriated. 63865

Section 74. NUR STATE BOARD OF NURSING 63866

General Services Fund Group 63867

4K9 884-609 Operating Expenses \$ 5,232,776 \$ 5,257,576 63868

5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000 63869

TOTAL GSF General Services 63870

Fund Group \$ 5,237,776 \$ 5,262,576 63871

TOTAL ALL BUDGET FUND GROUPS \$ 5,237,776 \$ 5,262,576 63872

NURSING SPECIAL ISSUES 63873

The foregoing appropriation item 884-601, Nursing Special 63874

Issues (Fund 5P8), shall be used to pay the costs the Board of 63875

Nursing incurs in implementing section 4723.062 of the Revised 63876

Code. 63877

Section 75. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND 63878

ATHLETIC TRAINERS BOARD 63879

General Services Fund Group 63880

4K9 890-609 Operating Expenses \$ 771,391 \$ 801,480 63881

TOTAL GSF General Services 63882

Fund Group \$ 771,391 \$ 801,480 63883

TOTAL ALL BUDGET FUND GROUPS \$ 771,391 \$ 801,480 63884

Section 80. PBR STATE PERSONNEL BOARD OF REVIEW 63886

General Revenue Fund 63887

GRF 124-321 Operating \$ 1,029,430 \$ 1,077,170 63888

TOTAL GRF General Revenue Fund \$ 1,029,430 \$ 1,077,170 63889

General Services Fund Group 63890

636 124-601 Transcript and Other \$ 25,000 \$ 25,000 63891

TOTAL GSF General Services 63892

Fund Group	\$	25,000	\$	25,000	63893
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170	63894

TRANSCRIPT AND OTHER 63895

The foregoing appropriation item 124-601, Transcript and 63896
 Other, may be used to defray the costs of producing an 63897
 administrative record. 63898

Section 81. PRX STATE BOARD OF PHARMACY 63899

General Services Fund Group					63900
4A5 887-605 Drug Law Enforcement	\$	72,900	\$	75,550	63901
4K9 887-609 Operating Expenses	\$	4,733,987	\$	4,914,594	63902
TOTAL GSF General Services					63903
Fund Group	\$	4,806,887	\$	4,990,144	63904
TOTAL ALL BUDGET FUND GROUPS	\$	4,806,887	\$	4,990,144	63905

Section 82. PSY STATE BOARD OF PSYCHOLOGY 63907

General Services Fund Group					63908
4K9 882-609 Operating Expenses	\$	516,544	\$	513,525	63909
TOTAL GSF General Services					63910
Fund Group	\$	516,544	\$	513,525	63911
TOTAL ALL BUDGET FUND GROUPS	\$	516,544	\$	513,525	63912

Section 83. PUB OHIO PUBLIC DEFENDER COMMISSION 63914

General Revenue Fund					63915
GRF 019-321 Public Defender	\$	1,430,057	\$	1,351,494	63916
Administration					
GRF 019-401 State Legal Defense	\$	5,724,780	\$	5,693,572	63917
Services					
GRF 019-403 Multi-County: State	\$	917,668	\$	930,894	63918
Share					
GRF 019-404 Trumbull County -	\$	299,546	\$	308,450	63919
State Share					

GRF 019-405	Training Account	\$	33,323	\$	33,323	63920
GRF 019-501	County Reimbursement -	\$	30,567,240	\$	32,630,070	63921
	Non-Capital Cases					
GRF 019-503	County Reimbursement -	\$	693,000	\$	726,000	63922
	Capital Cases					
TOTAL GRF	General Revenue Fund	\$	39,665,614	\$	41,673,803	63923
	General Services Fund Group					63924
101 019-602	Inmate Legal	\$	52,698	\$	53,086	63925
	Assistance					
406 019-603	Training and	\$	16,000	\$	16,000	63926
	Publications					
407 019-604	County Representation	\$	255,789	\$	259,139	63927
408 019-605	Client Payments	\$	285,533	\$	285,533	63928
TOTAL GSF	General Services					63929
Fund Group		\$	610,020	\$	613,758	63930
	Federal Special Revenue Fund Group					63931
3S8 019-608	Federal Representation	\$	351,428	\$	355,950	63932
TOTAL FED	Federal Special Revenue					63933
Fund Group		\$	351,428	\$	355,950	63934
	State Special Revenue Fund Group					63935
4C7 019-601	Multi-County: County	\$	1,923,780	\$	1,991,506	63936
	Share					
4X7 019-610	Trumbull County -	\$	624,841	\$	658,764	63937
	County Share					
574 019-606	Legal Services	\$	14,305,700	\$	14,305,800	63938
	Corporation					
TOTAL SSR	State Special Revenue					63939
Fund Group		\$	16,854,321	\$	16,956,070	63940
TOTAL ALL BUDGET FUND GROUPS		\$	57,481,383	\$	59,599,581	63941
	INDIGENT DEFENSE OFFICE					63942
	The foregoing appropriation items 019-404, Trumbull County -					63943

State Share, and 019-610, Trumbull County - County Share, shall be 63944
used to support an indigent defense office for Trumbull County. 63945

MULTI-COUNTY OFFICE 63946

The foregoing appropriation items 019-403, Multi-County: 63947
State Share, and 019-601, Multi-County: County Share, shall be 63948
used to support the Office of the Ohio Public Defender's 63949
Multi-County Branch Office Program. 63950

TRAINING ACCOUNT 63951

The foregoing appropriation item 019-405, Training Account, 63952
shall be used by the Ohio Public Defender to provide legal 63953
training programs at no cost for private appointed counsel who 63954
represent at least one indigent defendant at no cost and for state 63955
and county public defenders and attorneys who contract with the 63956
Ohio Public Defender to provide indigent defense services. 63957

FEDERAL REPRESENTATION 63958

The foregoing appropriation item 019-608, Federal 63959
Representation, shall be used to receive reimbursements from the 63960
federal courts when the Ohio Public Defender provides 63961
representation in federal court cases and to support 63962
representation in such cases. 63963

APPOINTED COUNSEL REIMBURSEMENT RATE FREEZE 63964

In establishing maximum amounts that the state will reimburse 63965
counties for legal services pursuant to divisions (B) (8) and (9) 63966
of section 120.04 of the Revised Code for the period from July 1, 63967
2003, through June 30, 2005, the state public defender shall not 63968
establish maximum amounts that exceed the maximum amounts in 63969
effect on March 1, 2003. 63970

Section 84. DHS DEPARTMENT OF PUBLIC SAFETY 63971

General Revenue Fund 63972

GRF 763-403	Operating Expenses - EMA	\$	4,058,188	\$	4,058,188	63973
GRF 763-507	Individual and Households Grants	\$	48,750	\$	48,750	63974
TOTAL GRF	General Revenue Fund	\$	4,106,938	\$	4,106,938	63975
	State Special Revenue Fund Group					63976
5X1 764-415	Public Safety Investigative Unit	\$	800,000	\$	800,000	63977
TOTAL SSR	State Special Revenue Fund Group	\$	800,000	\$	800,000	63978
TOTAL ALL BUDGET FUND GROUPS		\$	4,906,938	\$	4,906,938	63979
	OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT					63980
	Of the foregoing appropriation item 763-403, Operating Expenses - EMA, \$200,000 in each fiscal year shall be used to fund the Ohio Task Force One - Urban Search and Rescue Unit and other urban search and rescue programs around the state to create a stronger search and rescue capability statewide.					63981 63982 63983 63984 63985
	COUNTY EMERGENCY PREPAREDNESS GRANTS					63986
	The foregoing appropriation item 763-501, County Emergency Preparedness Grants, shall be used to improve preparedness of local emergency management agencies and authorities in accordance with Chapter 5502. of the Revised Code. The grants shall be distributed to agencies based on the distribution formula established for the Federal Emergency Management Agency (FEMA) "Emergency Management Performance Grant" (EMPG). Grants made under this section are not intended to supplant any federal, state, or local funding to an agency or authority. Therefore, neither a state agency nor any political subdivision shall take into account the receipt of a grant under this section in determining the amount of support that a state agency or political subdivision provides to an emergency management agency or authority.					63987 63988 63989 63990 63991 63992 63993 63994 63995 63996 63997 63998 63999

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH				64000	
The foregoing appropriation item 763-507, Individual and				64001	
Households Grants, shall be used to fund the state share of costs				64002	
to provide grants to individuals and households in cases of				64003	
disaster.				64004	
TRANSFER TO INVESTIGATIVE UNIT FUND				64005	
On July 1, 2003, or as soon thereafter as possible, the				64006	
Director of Budget and Management shall transfer \$136,000 from the				64007	
Drug Abuse Resistance Education Fund (Fund 4L6) to the Public				64008	
Safety Investigative Unit Fund (Fund 5X1).				64009	
Section 85. PUC PUBLIC UTILITIES COMMISSION OF OHIO				64010	
General Services Fund Group				64011	
5F6 870-622 Utility and Railroad	\$	30,622,222	\$	30,622,222	64012
Regulation					
5F6 870-624 NARUC/NRRI Subsidy	\$	167,233	\$	167,233	64013
5F6 870-625 Motor Transportation	\$	5,361,239	\$	5,361,239	64014
Regulation					
558 870-602 Salvage and Exchange	\$	16,477	\$	4,000	64015
TOTAL GSF General Services					64016
Fund Group	\$	36,167,171	\$	36,154,694	64017
Federal Special Revenue Fund Group					64018
3V3 870-604 Commercial Vehicle	\$	870,000	\$	300,000	64019
Information					
Systems/Networks					
333 870-601 Gas Pipeline Safety	\$	597,957	\$	597,957	64020
350 870-608 Motor Carrier Safety	\$	7,027,712	\$	7,027,712	64021
TOTAL FED Federal Special Revenue					64022
Fund Group	\$	8,495,669	\$	7,925,669	64023
State Special Revenue Fund Group					64024
4A3 870-614 Grade Crossing	\$	1,349,757	\$	1,349,757	64025

		Protection				
		Devices-State				
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621 64026
4S6	870-618	Hazardous Material	\$	899,325	\$	614,325 64027
		Registration				
4S6	870-621	Hazardous Materials	\$	373,346	\$	373,346 64028
		Base State				
		Registration				
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986 64029
559	870-605	Public Utilities	\$	4,000	\$	4,000 64030
		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 64031
561	870-606	Power Siting Board	\$	337,210	\$	337,210 64032
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 64033
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 64034
		Transportation				
		TOTAL SSR State Special Revenue				64035
		Fund Group	\$	4,911,245	\$	4,341,245 64036
		Agency Fund Group				64037
4G4	870-616	Base State	\$	6,500,000	\$	6,500,000 64038
		Registration Program				
		TOTAL AGY Agency Fund Group	\$	6,500,000	\$	6,500,000 64039
		TOTAL ALL BUDGET FUND GROUPS	\$	56,074,085	\$	54,921,608 64040
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				64041
		The Commercial Vehicle Information Systems and Networks Fund				64042
		is hereby created in the state treasury. The Commercial Vehicle				64043
		Information Systems and Networks Fund shall receive funding from				64044
		the United States Department of Transportation's Commercial				64045
		Vehicle Intelligent Transportation System Infrastructure				64046
		Deployment Program and shall be used to deploy the Ohio Commercial				64047
		Vehicle Information Systems and Networks Project and to expedite				64048

and improve the safety of motor carrier operations through 64049
 electronic exchange of data by means of on-highway electronic 64050
 systems. 64051

Notwithstanding section 4905.80 of the Revised Code, up to 64052
 \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 64053
 the foregoing appropriation item 870-618, Hazardous Material 64054
 Registration, may be used to pay the state share of the 64055
 implementation of the Ohio Commercial Vehicle Information Systems 64056
 and Networks Project. 64057

Notwithstanding section 4923.12 of the Revised Code, up to 64058
 \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 64059
 the foregoing appropriation item 870-620, Civil Forfeitures, may 64060
 be used to pay the state share of the implementation of the Ohio 64061
 Commercial Vehicle Information Systems and Networks Project. 64062

Section 86. PWC PUBLIC WORKS COMMISSION 64063

General Revenue Fund 64064

GRF 150-904	Conservation General	\$	9,743,500	\$	11,235,700	64065
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Obligation Debt
 Service

GRF 150-907	State Capital	\$	156,974,400	\$	152,069,700	64066
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Improvements
 General Obligation
 Debt Service

TOTAL GRF General Revenue Fund	\$	166,717,900	\$	163,305,400	64068
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Clean Ohio Fund Group 64069

056 150-403	Clean Ohio Operating	\$	298,200	\$	304,400	64070
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Expenses

TOTAL 056 Clean Ohio Fund Group	\$	298,200	\$	304,400	64071
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TOTAL ALL BUDGET FUND GROUPS	\$	167,016,100	\$	163,609,800	64072
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CONSERVATION GENERAL OBLIGATION DEBT SERVICE 64073

The foregoing appropriation item 150-904, Conservation
General Obligation Debt Service, shall be used to pay all debt
service and related financing costs at the times they are required
to be made pursuant to sections 151.01 and 151.09 of the Revised
Code during the period from July 1, 2003, to June 30, 2005. The
Office of the Sinking Fund or the Director of Budget and
Management shall effectuate the required payments by an intrastate
transfer voucher.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 64082

The foregoing appropriation item 150-907, State Capital
Improvements General Obligation Debt Service, shall be used to pay
all debt service and related financing costs at the times they are
required to be made pursuant to sections 151.01 and 151.08 of the
Revised Code during the period from July 1, 2003, to June 30,
2005. The Office of the Sinking Fund or the Director of Budget and
Management shall effectuate the required payments by an intrastate
transfer voucher.

CLEAN OHIO OPERATING EXPENSES 64091

The foregoing appropriation item 150-403, Clean Ohio
Operating Expenses, shall be used by the Ohio Public Works
Commission in administering sections 164.20 to 164.27 of the
Revised Code.

Section 87. RAC STATE RACING COMMISSION 64096

General Revenue Fund 64097

GRF 875-401 Commission \$ 1,500 \$ 0 64098

Certification Costs

TOTAL GRF General Revenue Fund \$ 1,500 \$ 0 64099

State Special Revenue Fund Group 64100

5C4 875-607 Simulcast Horse Racing \$ 19,730,799 \$ 19,476,952 64101

Purse

562	875-601	Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378	64102
563	875-602	Standardbred	\$	2,908,841	\$	3,161,675	64103
		Development Fund					
564	875-603	Quarterhorse	\$	1,000	\$	2,000	64104
		Development Fund					
565	875-604	Racing Commission	\$	4,485,777	\$	4,759,834	64105
		Operating					
TOTAL SSR State Special Revenue							64106
Fund Group			\$	31,768,795	\$	32,042,839	64107
Holding Account Redistribution Fund Group							64108
R21	875-605	Bond Reimbursements	\$	212,900	\$	212,900	64109
TOTAL 090 Holding Account							64110
Redistribution							
Fund Group			\$	212,900	\$	212,900	64111
TOTAL ALL BUDGET FUND GROUPS			\$	31,992,908	\$	32,255,739	64112
COMMISSION CERTIFICATION COSTS							64113
The foregoing appropriation item, 875-401, Commission							64114
Certification Costs, shall be used to offset the Racing							64115
Commission's costs of certifying to the Ohio Lottery Commission							64116
the names of holders of permits to conduct a racing meeting as							64117
required by Section 145.03W of this act.							64118
Section 88. BOR BOARD OF REGENTS							64119
General Revenue Fund							64120
GRF	235-321	Operating Expenses	\$	2,886,284	\$	2,767,219	64121
GRF	235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400	64122
GRF	235-402	Sea Grants	\$	274,895	\$	274,895	64123
GRF	235-403	Math/Science Teaching	\$	1,757,614	\$	1,757,614	64124
		Improvement					
GRF	235-404	College Readiness	\$	2,277,641	\$	2,277,641	64125
		Initiatives					
GRF	235-406	Articulation and	\$	513,450	\$	513,450	64126

	Transfer					
GRF 235-408	Midwest Higher Education Compact	\$	35,000	\$	35,000	64127
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671	64128
GRF 235-414	State Grants and Scholarship Administration	\$	1,219,719	\$	1,211,373	64129
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300	64130
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720	64131
GRF 235-418	Access Challenge	\$	74,568,622	\$	74,568,622	64132
GRF 235-420	Success Challenge	\$	43,113,077	\$	43,113,077	64133
GRF 235-428	Appalachian New Economy Partnership	\$	940,000	\$	940,000	64134
GRF 235-451	Eminent Scholars	\$	0	\$	1,462,500	64135
GRF 235-454	Research Challenge	\$	18,330,000	\$	18,330,000	64136
GRF 235-455	EnterpriseOhio Network	\$	1,505,262	\$	1,465,650	64137
GRF 235-474	Area Health Education Centers Program Support	\$	1,580,502	\$	1,540,990	64138
GRF 235-477	Access Improvement Projects	\$	1,048,664	\$	1,080,124	64139
GRF 235-501	State Share of Instruction	\$	1,505,373,459	\$	1,505,335,851	64140
GRF 235-502	Student Support Services	\$	870,675	\$	848,908	64141
GRF 235-503	Ohio Instructional Grants	\$	111,966,343	\$	115,325,333	64142
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321	64143
GRF 235-507	OhioLINK	\$	7,028,392	\$	7,028,392	64144
GRF 235-508	Air Force Institute of Technology	\$	1,880,000	\$	1,880,000	64145
GRF 235-510	Ohio Supercomputer	\$	4,208,472	\$	4,103,260	64146

	Center					
GRF 235-511	Cooperative Extension Service	\$	25,394,863	\$	25,394,863	64147
GRF 235-513	Ohio University Voinovich Center	\$	271,977	\$	265,178	64148
GRF 235-514	Central State Supplement	\$	11,039,203	\$	11,039,203	64149
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,168,949	\$	3,089,725	64150
GRF 235-519	Family Practice	\$	4,840,887	\$	4,719,865	64151
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289	64152
GRF 235-521	The Ohio State University Glenn Institute	\$	271,977	\$	265,178	64153
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819	64154
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179	64155
GRF 235-526	Primary Care Residencies	\$	2,390,061	\$	2,330,310	64156
GRF 235-527	Ohio Aerospace Institute	\$	1,763,843	\$	1,719,747	64157
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	64158
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646	64159
GRF 235-534	Student Workforce Development Grants	\$	2,437,500	\$	2,437,500	64160
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,496,855	\$	35,496,855	64161
GRF 235-536	The Ohio State University Clinical Teaching	\$	12,461,503	\$	12,461,503	64162

GRF 235-537	University of Cincinnati Clinical Teaching	\$	10,249,417	\$	10,249,417	64163
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	7,988,864	\$	7,988,864	64164
GRF 235-539	Wright State University Clinical Teaching	\$	3,881,147	\$	3,881,147	64165
GRF 235-540	Ohio University Clinical Teaching	\$	3,752,022	\$	3,752,022	64166
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	3,858,951	\$	3,858,951	64167
GRF 235-543	Ohio College of Podiatric Medicine Clinical Subsidy	\$	389,513	\$	389,513	64168
GRF 235-547	School of International Business	\$	1,264,611	\$	1,232,996	64169
GRF 235-549	Part-time Student Instructional Grants	\$	14,036,622	\$	14,457,721	64170
GRF 235-553	Dayton Area Graduate Studies Institute	\$	2,726,884	\$	2,726,884	64171
GRF 235-554	Computer Science Graduate Education	\$	2,577,209	\$	2,512,779	64172
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080	64173
GRF 235-556	Ohio Academic Resources Network	\$	3,657,009	\$	3,803,289	64174
GRF 235-558	Long-term Care Research	\$	230,906	\$	225,134	64175
GRF 235-561	Bowling Green State University Canadian	\$	121,586	\$	118,546	64176

	Studies Center					
GRF 235-572	The Ohio State University Clinic Support	\$	1,400,394	\$	1,362,259	64177
GRF 235-583	Urban University Programs	\$	4,813,113	\$	4,692,785	64178
GRF 235-585	Ohio University Innovation Center	\$	36,078	\$	35,176	64179
GRF 235-587	Rural University Projects	\$	1,018,010	\$	992,559	64180
GRF 235-588	Ohio Resource Center for Mathematics, Science, and Reading	\$	853,262	\$	853,262	64181
GRF 235-595	International Center for Water Resources Development	\$	137,352	\$	133,918	64182
GRF 235-596	Hazardous Materials Program	\$	339,647	\$	331,156	64183
GRF 235-599	National Guard Scholarship Program	\$	13,252,916	\$	14,578,208	64184
GRF 235-909	Higher Education General Obligation Debt Service	\$	97,668,000	\$	130,967,600	64185
TOTAL GRF	General Revenue Fund	\$	2,385,116,592	\$	2,394,320,437	64186
	General Services Fund Group					64187
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000	64188
456 235-603	Sales and Services	\$	300,002	\$	300,003	64189
TOTAL GSF	General Services Fund Group	\$	700,002	\$	700,003	64191
	Federal Special Revenue Fund Group					64192
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000	64193

3N6	235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680	64194
3T0	235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001	64195
312	235-609	Tech Prep	\$	183,850	\$	183,850	64196
312	235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691	64197
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960	64198
312	235-615	Professional Development	\$	523,129	\$	523,129	64199
312	235-616	Workforce Investment Act Administration	\$	850,000	\$	850,000	64200
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590	64201
TOTAL FED Federal Special Revenue							64202
Fund Group			\$	10,439,814	\$	10,037,901	64203
State Special Revenue Fund Group							64204
4E8	235-602	Higher Educational Facility Commission Administration	\$	20,000	\$	20,000	64205
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	64206
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	64207
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	64208
TOTAL SSR State Special Revenue							64209
Fund Group			\$	2,149,870	\$	2,149,870	64210
TOTAL ALL BUDGET FUND GROUPS			\$	2,398,406,278	\$	2,407,208,211	64211

Section 88.01. OPERATING EXPENSES

64213

Of the foregoing appropriation item 235-321, Operating Expenses, \$50,000 in each fiscal year shall be distributed to the Don't Laugh at Me Program, which shall use the funds to disseminate educational resources designed to establish a climate that reduces the emotional and physical harm caused by ridicule, bullying, and violence.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 235-401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 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 pursuant to section 154.21 of the Revised Code.

SEA GRANTS

The foregoing appropriation item 235-402, Sea Grants, shall be disbursed to the Ohio State University and shall be used to conduct research on fish in Lake Erie.

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT

Appropriation item 235-403, Math/Science Teaching Improvement, shall be used by the Board of Regents to support programs such as OSI - Discovery designed to raise the quality of mathematics and science teaching in primary and secondary education.

Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$217,669 in each fiscal year shall be distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-403, Math/Science 64244
Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in 64245
fiscal year 2005 shall be distributed to the Ohio Mathematics and 64246
Science Coalition. 64247

COLLEGE READINESS INITIATIVES 64248

Appropriation item 235-404, College Readiness Initiatives, 64249
shall be used by the Board of Regents to support programs designed 64250
to improve the academic preparation and increase the number of 64251
students that enroll and succeed in higher education. 64252

MIDWEST HIGHER EDUCATION COMPACT 64253

The foregoing appropriation item 235-408, Midwest Higher 64254
Education Compact, shall be distributed by the Board of Regents 64255
pursuant to section 3333.40 of the Revised Code. 64256

INFORMATION SYSTEM 64257

The foregoing appropriation item 235-409, Information System, 64258
shall be used by the Board of Regents to operate the higher 64259
education information data system known as the Higher Education 64260
Information System. 64261

Section 88.02. JOBS CHALLENGE 64262

Funds appropriated to appropriation item 235-415, Jobs 64263
Challenge, shall be distributed to state-assisted community and 64264
technical colleges, regional campuses of state-assisted 64265
universities, and other organizationally distinct and identifiable 64266
member campuses of the EnterpriseOhio Network in support of 64267
noncredit job-related training. In each fiscal year, \$2,770,773 64268
shall be distributed as performance grants to EnterpriseOhio 64269
Network campuses based upon each campus's documented performance 64270
according to criteria established by the Board of Regents for 64271
increasing training and related services to businesses, 64272
industries, and public sector organizations. 64273

Of the foregoing appropriation item 235-415, Jobs Challenge, 64274
\$2,819,345 in each fiscal year shall be allocated to the Targeted 64275
Industries Training Grant Program to attract, develop, and retain 64276
business and industry strategically important to the state's 64277
economy. 64278

Also, in each fiscal year, \$3,758,182 shall be allocated to 64279
the Higher Skills Incentives Program to promote and deliver 64280
coordinated, comprehensive training to local employers and to 64281
reward EnterpriseOhio Network campuses for increasing the amount 64282
of non-credit skill upgrading services provided to Ohio employers 64283
and employees. The funds shall be distributed to campuses in 64284
proportion to each campus's share of noncredit job-related 64285
training revenues received by all campuses for the previous fiscal 64286
year. It is the intent of the General Assembly that this Higher 64287
Skills Incentives component of the Jobs Challenge Program reward 64288
campus noncredit job-related training efforts in the same manner 64289
that the Research Challenge Program rewards campuses for their 64290
ability to obtain sponsored research revenues. 64291

OHIO LEARNING NETWORK 64292

Appropriation item 235-417, Ohio Learning Network, shall be 64293
used by the Board of Regents to support the continued 64294
implementation of the Ohio Learning Network, a statewide 64295
electronic collaborative effort designed to promote degree 64296
completion of students, workforce training of employees, and 64297
professional development through the use of advanced 64298
telecommunications and distance education initiatives. 64299

ACCESS CHALLENGE 64300

In each fiscal year, the foregoing appropriation item 64301
235-418, Access Challenge, shall be distributed to Ohio's 64302
state-assisted access colleges and universities. For the purposes 64303
of this allocation, "access campuses" includes state-assisted 64304

community colleges, state community colleges, technical colleges, 64305
Shawnee State University, Central State University, Cleveland 64306
State University, the regional campuses of state-assisted 64307
universities, and, where they are organizationally distinct and 64308
identifiable, the community-technical colleges located at the 64309
University of Cincinnati, Youngstown State University, and the 64310
University of Akron. 64311

The purpose of Access Challenge is to reduce the student 64312
share of costs for resident undergraduates enrolled in lower 64313
division undergraduate courses at Ohio's access campuses. The 64314
long-term goal is to make the student share of costs for these 64315
students equivalent to the student share of costs for resident 64316
undergraduate students enrolled throughout Ohio's public colleges 64317
and universities. Access Challenge appropriations shall be used in 64318
both years of the biennium to sustain, as much as possible, the 64319
tuition restraint or tuition reduction that was achieved with 64320
Access Challenge allocations in prior years. 64321

In fiscal year 2004, Access Challenge subsidies shall be 64322
distributed by the Board of Regents to eligible access campuses on 64323
the basis of the average of each campus's share of fiscal year 64324
2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In 64325
fiscal year 2005, Access Challenge subsidies shall be distributed 64326
by the Board of Regents to eligible access campuses on the basis 64327
of the average of each campus's share of fiscal year 2002 and 2003 64328
all-terms subsidy-eligible General Studies FTEs. 64329

For the purposes of this calculation, Cleveland State 64330
University's enrollments shall be adjusted by the ratio of the sum 64331
of subsidy-eligible lower-division FTE student enrollments 64332
eligible for access funding to the sum of subsidy-eligible General 64333
Studies FTE student enrollments at Central State University and 64334
Shawnee State University, and for the following universities and 64335
their regional campuses: the Ohio State University, Ohio 64336

University, Kent State University, Bowling Green State University, 64337
Miami University, the University of Cincinnati, the University of 64338
Akron, and Wright State University. 64339

SUCCESS CHALLENGE 64340

The foregoing appropriation item 235-420, Success Challenge, 64341
shall be used by the Board of Regents to promote degree completion 64342
by students enrolled at a main campus of a state-assisted 64343
university. 64344

In each fiscal year, two-thirds of the appropriations shall 64345
be distributed to state-assisted university main campuses in 64346
proportion to each campus's share of the total statewide 64347
bachelor's degrees granted by university main campuses to 64348
"at-risk" students. In fiscal years 2004 and 2005, an "at-risk" 64349
student means any undergraduate student who was eligible to 64350
receive an Ohio Instructional Grant during the past ten years. An 64351
eligible institution shall not receive its share of this 64352
distribution until it has submitted a plan that addresses how the 64353
subsidy will be used to better serve at-risk students and increase 64354
their likelihood of successful completion of a bachelor's degree 64355
program. The Board of Regents shall disseminate to all 64356
state-supported institutions of higher education all such plans 64357
submitted by institutions that received Success Challenge funds. 64358

In each fiscal year, one-third of the appropriations shall be 64359
distributed to university main campuses in proportion to each 64360
campus's share of the total bachelor's degrees granted by 64361
university main campuses to undergraduate students who completed 64362
their bachelor's degrees in a "timely manner" in the previous 64363
fiscal year. For the purposes of this section, "timely manner" 64364
means the normal time it would take for a full-time degree-seeking 64365
undergraduate student to complete the student's degree. Generally, 64366
for such students pursuing a bachelor's degree, "timely manner" 64367
means four years. Exceptions to this general rule shall be 64368

permitted for students enrolled in programs specifically designed 64369
to be completed in a longer time period. The Board of Regents 64370
shall collect data to assess the timely completion statistics by 64371
university main campuses. 64372

APPALACHIAN NEW ECONOMY PARTNERSHIP 64373

The foregoing appropriation item 235-428, Appalachian New 64374
Economy Partnership, shall be distributed to Ohio University to 64375
continue a multi-campus and multi-agency coordinated effort to 64376
link Appalachia to the new economy. Ohio University shall use 64377
these funds to provide leadership in the development and 64378
implementation of initiatives in the areas of entrepreneurship, 64379
management, education, and technology. 64380

EMINENT SCHOLARS 64381

The foregoing appropriation item 235-451, Eminent Scholars, 64382
shall be used by the Ohio Board of Regents to establish an Ohio 64383
Eminent Scholars Program, the purpose of which is to invest 64384
educational resources to address problems that are of vital 64385
statewide significance while fostering the growth in eminence of 64386
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 64387
will allow Ohio universities to recruit senior faculty members 64388
from outside Ohio who are nationally and internationally 64389
recognized scholars in areas of science and technology that 64390
provide the basic research platforms on which our technology and 64391
commercialization efforts are built. Endowment grants of 64392
approximately \$750,000 to state colleges and universities and 64393
nonprofit Ohio institutions of higher education holding 64394
certificates of authorization issued under section 1713.02 of the 64395
Revised Code to match endowment gifts from nonstate sources may be 64396
made in accordance with a plan established by the Ohio Board of 64397
Regents. Matching nonstate gifts in science and technology 64398
programs shall be \$750,000. The grants shall have as their purpose 64399
attracting and sustaining in Ohio scholar-leaders of national or 64400

international prominence; each will assist in accelerating state 64401
economic growth through research that provides an essential basic 64402
science platform for commercialization efforts. Such 64403
scholar-leaders shall, among their duties, share broadly the 64404
benefits and knowledge unique to their fields of scholarship to 64405
the betterment of Ohio and its people and collaborate with other 64406
state technology programs and program recipients. 64407

RESEARCH CHALLENGE 64408

The foregoing appropriation item 235-454, Research Challenge, 64409
shall be used to enhance the basic research capabilities of public 64410
colleges and universities and accredited Ohio institutions of 64411
higher education holding certificates of authorization issued 64412
pursuant to section 1713.02 of the Revised Code, in order to 64413
strengthen academic research for pursuing Ohio's economic 64414
development goals. The Board of Regents, in consultation with the 64415
colleges and universities, shall administer the Research Challenge 64416
Program and utilize a means of matching, on a fractional basis, 64417
external funds attracted in the previous year by institutions for 64418
basic research. The program may include incentives for increasing 64419
the amount of external research funds coming to eligible 64420
institutions and for focusing research efforts upon critical state 64421
needs. Colleges and universities shall submit for review and 64422
approval to the Board of Regents plans for the institutional 64423
allocation of state dollars received through the program. The 64424
institutional plans shall provide the rationale for the allocation 64425
in terms of the strategic targeting of funds for academic and 64426
state purposes, for strengthening research programs, for 64427
increasing the amount of external research funds, and shall 64428
include an evaluation process to provide results of the increased 64429
support. Each institutional plan for the investment of Research 64430
Challenge moneys shall report on existing, planned, and/or 64431
possible relationships with other State of Ohio science and 64432

technology programs and funding recipients in order to further 64433
ongoing statewide science and technology collaboration objectives. 64434
The Board of Regents shall submit a biennial report of progress to 64435
the General Assembly. 64436

ENTERPRISEOHIO NETWORK 64437

The foregoing appropriation item 235-455, EnterpriseOhio 64438
Network, shall be allocated by the Board of Regents to continue 64439
increasing the capabilities of the EnterpriseOhio Network to meet 64440
the ongoing training needs of Ohio employers. Funds shall support 64441
multicampus collaboration, best practice dissemination, and 64442
capacity building projects. The Regents Advisory Committee for 64443
Workforce Development, in its advisory role, shall advise in the 64444
development of plans and activities. 64445

Of the foregoing appropriation item 235-455, EnterpriseOhio 64446
Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 64447
2005 shall be used by the Dayton Business/Sinclair College Jobs 64448
Profiling Program. 64449

Section 88.03. AREA HEALTH EDUCATION CENTERS 64450

The foregoing appropriation item 235-474, Area Health 64451
Education Centers Program Support, shall be used by the Board of 64452
Regents to support the medical school regional area health 64453
education centers' educational programs for the continued support 64454
of medical and other health professions education and for support 64455
of the Area Health Education Center Program. 64456

Of the foregoing appropriation item 235-474, Area Health 64457
Education Centers Program Support, \$174,135 in fiscal year 2004 64458
and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio 64459
University College of Osteopathic Medicine to operate a mobile 64460
health care unit to serve the southeastern area of the state. Of 64461
the foregoing appropriation item 235-474, Area Health Education 64462

Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 64463
in fiscal year 2005 shall be used to support the Ohio Valley 64464
Community Health Information Network (OVCHIN) project. 64465

ACCESS IMPROVEMENT PROJECTS 64466

The foregoing appropriation item 235-477, Access Improvement 64467
Projects, shall be used by the Board of Regents to support 64468
innovative statewide strategies to increase student access and 64469
retention for specialized populations, and to provide for pilot 64470
projects that will contribute to improving access to higher 64471
education by specialized populations. The funds may be used for 64472
projects that improve access for nonpublic secondary students. 64473

Of the foregoing appropriation item 235-477, Access 64474
Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in 64475
fiscal year 2005 shall be distributed to the Ohio Appalachian 64476
Center for Higher Education at Shawnee State University. The board 64477
of directors of the center shall consist of the presidents of 64478
Shawnee State University, Ohio University, Belmont Technical 64479
College, Hocking Technical College, Jefferson Community College, 64480
Muskingum Area Technical College, Rio Grande Community College, 64481
Southern State Community College, and Washington State Community 64482
College; the dean of one of the Salem, Tuscarawas, and East 64483
Liverpool regional campuses of Kent State University, as 64484
designated by the president of Kent State University; and a 64485
representative of the Board of Regents designated by the 64486
Chancellor. 64487

Of the foregoing appropriation item 235-477, Access 64488
Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in 64489
fiscal year 2005 shall be distributed to Miami University for the 64490
Student Achievement in Research and Scholarship (STARS) Program. 64491

Section 88.04. STATE SHARE OF INSTRUCTION 64492

As soon as practicable during each fiscal year of the 64493
2003-2005 biennium in accordance with instructions of the Board of 64494
Regents, each state-assisted institution of higher education shall 64495
report its actual enrollment to the Board of Regents. 64496

The Board of Regents shall establish procedures required by 64497
the system of formulas set out below and for the assignment of 64498
individual institutions to categories described in the formulas. 64499
The system of formulas establishes the manner in which aggregate 64500
expenditure requirements shall be determined for each of the three 64501
components of institutional operations. In addition to other 64502
adjustments and calculations described below, the subsidy 64503
entitlement of an institution shall be determined by subtracting 64504
from the institution's aggregate expenditure requirements income 64505
to be derived from the local contributions assumed in calculating 64506
the subsidy entitlements. The local contributions for purposes of 64507
determining subsidy support shall not limit the authority of the 64508
individual boards of trustees to establish fee levels. 64509

The General Studies and Technical models shall be adjusted by 64510
the Board of Regents so that the share of state subsidy earned by 64511
those models is not altered by changes in the overall local share. 64512
A lower-division fee differential shall be used to maintain the 64513
relationship that would have occurred between these models and the 64514
baccalaureate models had an assumed share of 37 per cent been 64515
funded. 64516

In defining the number of full-time equivalent (FTE) students 64517
for state subsidy purposes, the Board of Regents shall exclude all 64518
undergraduate students who are not residents of Ohio, except those 64519
charged in-state fees in accordance with reciprocity agreements 64520
made pursuant to section 3333.17 of the Revised Code or employer 64521
contracts entered into pursuant to section 3333.32 of the Revised 64522
Code. 64523

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT	64524		
(1) INSTRUCTION AND SUPPORT SERVICES	64525		
MODEL	FY 2004	FY 2005	64526
General Studies I	\$ 4,947	\$ 4,983	64527
General Studies II	\$ 5,323	\$ 5,336	64528
General Studies III	\$ 6,883	\$ 7,120	64529
Technical I	\$ 5,913	\$ 6,137	64530
Technical III	\$ 9,522	\$ 10,026	64531
Baccalaureate I	\$ 7,623	\$ 7,721	64532
Baccalaureate II	\$ 8,584	\$ 8,864	64533
Baccalaureate III	\$ 12,559	\$ 12,932	64534
Masters and Professional I	\$ 15,867	\$ 18,000	64535
Masters and Professional II	\$ 20,861	\$ 22,141	64536
Masters and Professional III	\$ 27,376	\$ 28,190	64537
Medical I	\$ 30,867	\$ 31,819	64538
Medical II	\$ 41,495	\$ 41,960	64539
MPD I	\$ 14,938	\$ 14,966	64540
(2) STUDENT SERVICES	64541		
For this purpose, FTE counts shall be weighted to reflect	64542		
differences among institutions in the numbers of students enrolled	64543		
on a part-time basis. The student services subsidy per FTE shall	64544		
be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all	64545		
models.	64546		
(B) PLANT OPERATION AND MAINTENANCE (POM)	64547		
(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY	64548		
Space undergoing renovation shall be funded at the rate	64549		
allowed for storage space.	64550		
In the calculation of square footage for each campus, square	64551		
footage shall be weighted to reflect differences in space	64552		
utilization.	64553		

The space inventories for each campus shall be those 64554
determined in the fiscal year 2003 state share of instruction 64555
calculation, adjusted for changes attributable to the construction 64556
or renovation of facilities for which state appropriations were 64557
made or local commitments were made prior to January 1, 1995. 64558

Only 50 per cent of the space permanently taken out of 64559
operation in fiscal year 2004 or fiscal year 2005 that is not 64560
otherwise replaced by a campus shall be deleted from the plant 64561
operation and maintenance space inventory. 64562

The square-foot-based plant operation and maintenance subsidy 64563
for each campus shall be determined as follows: 64564

(a) For each standard room type category shown below, the 64565
subsidy-eligible net assignable square feet (NASF) for each campus 64566
shall be multiplied by the following rates, and the amounts summed 64567
for each campus to determine the total gross square-foot-based POM 64568
expenditure requirement: 64569

	FY 2004	FY 2005	
Classrooms	\$5.80	\$6.04	64571
Laboratories	\$7.22	\$7.53	64572
Offices	\$5.80	\$6.04	64573
Audio Visual Data Processing	\$7.22	\$7.53	64574
Storage	\$2.57	\$2.68	64575
Circulation	\$7.31	\$7.62	64576
Other	\$5.80	\$6.04	64577

(b) The total gross square-foot POM expenditure requirement 64578
shall be allocated to models in proportion to FTE enrollments as 64579
reported in enrollment data for all models except Doctoral I and 64580
Doctoral II. 64581

(c) The amounts allocated to models in division (B)(1)(b) of 64582
this section shall be multiplied by the ratio of subsidy-eligible 64583
FTE students to total FTE students reported in each model, and the 64584

amounts summed for all models. To this total amount shall be added 64585
an amount to support roads and grounds expenditures to produce the 64586
total square-foot-based POM subsidy. 64587

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 64588

(a) The number of subsidy-eligible FTE students in each model 64589
shall be multiplied by the following rates for each campus for 64590
each fiscal year. 64591

	FY 2004	FY 2005	
General Studies I	\$ 552	\$ 560	64593
General Studies II	\$ 696	\$ 705	64594
General Studies III	\$1,608	\$1,651	64595
Technical I	\$ 777	\$ 806	64596
Technical III	\$1,501	\$1,570	64597
Baccalaureate I	\$ 700	\$ 706	64598
Baccalaureate II	\$1,250	\$1,232	64599
Baccalaureate III	\$1,520	\$1,458	64600
Masters and Professional I	\$1,258	\$1,301	64601
Masters and Professional II	\$2,817	\$2,688	64602
Masters and Professional III	\$3,832	\$3,712	64603
Medical I	\$2,663	\$2,669	64604
Medical II	\$3,837	\$4,110	64605
MPD I	\$1,213	\$1,233	64606

(b) The sum of the products for each campus determined in 64607
division (B)(2)(a) of this section for all models except Doctoral 64608
I and Doctoral II for each fiscal year shall be weighted by a 64609
factor to reflect sponsored research activity and job 64610
training-related public services expenditures to determine the 64611
total activity-based POM subsidy. 64612

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 64613

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 64614

The calculation of the core subsidy entitlement shall consist 64615

of the following components: 64616

(a) For each campus and for each fiscal year, the core 64617
subsidy entitlement shall be determined by multiplying the amounts 64618
listed above in divisions (A)(1) and (2) and (B)(2) of this 64619
section less assumed local contributions, by (i) average 64620
subsidy-eligible FTEs for the two-year period ending in the prior 64621
year for all models except Doctoral I and Doctoral II; and (ii) 64622
average subsidy-eligible FTEs for the five-year period ending in 64623
the prior year for all models except Doctoral I and Doctoral II. 64624

(b) In calculating the core subsidy entitlements for Medical 64625
II models only, the Board of Regents shall use the following count 64626
of FTE students: 64627

(i) For those medical schools whose current year enrollment, 64628
including students repeating terms, is below the base enrollment, 64629
the Medical II FTE enrollment shall equal: 65 per cent of the base 64630
enrollment plus 35 per cent of the current year enrollment 64631
including students repeating terms, where the base enrollment is: 64632

The Ohio State University	1010	64633
University of Cincinnati	833	64634
Medical College of Ohio at Toledo	650	64635
Wright State University	433	64636
Ohio University	433	64637
Northeastern Ohio Universities College of Medicine	433	64638

(ii) For those medical schools whose current year enrollment, 64639
excluding students repeating terms, is equal to or greater than 64640
the base enrollment, the Medical II FTE enrollment shall equal the 64641
base enrollment plus the FTE for repeating students. 64642

(iii) Students repeating terms may be no more than five per 64643
cent of current year enrollment. 64644

(c) The Board of Regents shall compute the sum of the two 64645

calculations listed in division (C)(1)(a) of this section and use 64646
the greater sum as the core subsidy entitlement. 64647

The POM subsidy for each campus shall equal the greater of 64648
the square-foot-based subsidy or the activity-based POM subsidy 64649
component of the core subsidy entitlement. 64650

(d) The state share of instruction provided for doctoral 64651
students shall be based on a fixed percentage of the total 64652
appropriation. In each fiscal year of the biennium not more than 64653
10.0 per cent of the total state share of instruction shall be 64654
reserved to implement the recommendations of the Graduate Funding 64655
Commission. It is the intent of the General Assembly that the 64656
doctoral reserve not exceed 10.0 per cent of the total state share 64657
of instruction to implement the recommendations of the Graduate 64658
Funding Commission. The Board of Regents may reallocate up to two 64659
per cent in each fiscal year of the reserve among the 64660
state-assisted universities on the basis of a quality review as 64661
specified in the recommendations of the Graduate Funding 64662
Commission. No such reallocation shall occur unless the Board of 64663
Regents, in consultation with representatives of state-assisted 64664
universities, determines that sufficient funds are available for 64665
this purpose. 64666

The amount so reserved shall be allocated to universities in 64667
proportion to their share of the total number of Doctoral I 64668
equivalent FTEs as calculated on an institutional basis using the 64669
greater of the two-year or five-year FTEs for the period fiscal 64670
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 64671
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 64672
adjusted to reflect the effects of doctoral review and subsequent 64673
changes in Doctoral I equivalent enrollments. For the purposes of 64674
this calculation, Doctoral I equivalent FTEs shall equal the sum 64675
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 64676

(2) CAPITAL COMPONENT DEDUCTION 64677

After all other adjustments have been made, state share of 64678
instruction earnings shall be reduced for each campus by the 64679
amount, if any, by which debt service charged in Am. H.B. No. 748 64680
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 64681
General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, 64682
and H.B. No. 675 of the 124th General Assembly for that campus 64683
exceeds that campus's capital component earnings. 64684

(D) REDUCTIONS IN EARNINGS 64685

If the total state share of instruction earnings in any 64686
fiscal year exceed the total appropriations available for such 64687
purposes, the Board of Regents shall proportionately reduce the 64688
state share of instruction earnings for all campuses by a uniform 64689
percentage so that the system wide sum equals available 64690
appropriations. 64691

(E) EXCEPTIONAL CIRCUMSTANCES 64692

Adjustments may be made to the state share of instruction 64693
payments and other subsidies distributed by the Board of Regents 64694
to state-assisted colleges and universities for exceptional 64695
circumstances. No adjustments for exceptional circumstances may be 64696
made without the recommendation of the Chancellor and the approval 64697
of the Controlling Board. 64698

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 64699
INSTRUCTION 64700

The standard provisions of the state share of instruction 64701
calculation as described in the preceding sections of temporary 64702
law shall apply to any reductions made to appropriation line item 64703
235-501, State Share of Instruction, before the Board of Regents 64704
has formally approved the final allocation of the state share of 64705
instruction funds for any fiscal year. 64706

Any reductions made to appropriation line item 235-501, State 64707

Share of Instruction, after the Board of Regents has formally 64708
approved the final allocation of the state share of instruction 64709
funds for any fiscal year, shall be uniformly applied to each 64710
campus in proportion to its share of the final allocation. 64711

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 64712

The state share of instruction payments to the institutions 64713
shall be in substantially equal monthly amounts during the fiscal 64714
year, unless otherwise determined by the Director of Budget and 64715
Management pursuant to section 126.09 of the Revised Code. 64716
Payments during the first six months of the fiscal year shall be 64717
based upon the state share of instruction appropriation estimates 64718
made for the various institutions of higher education according to 64719
Board of Regents enrollment estimates. Payments during the last 64720
six months of the fiscal year shall be distributed after approval 64721
of the Controlling Board upon the request of the Board of Regents. 64722

(H) LAW SCHOOL SUBSIDY 64723

The state share of instruction to state-supported 64724
universities for students enrolled in law schools in fiscal year 64725
2004 and fiscal year 2005 shall be calculated by using the number 64726
of subsidy-eligible FTE law school students funded by state 64727
subsidy in fiscal year 1995 or the actual number of 64728
subsidy-eligible FTE law school students at the institution in the 64729
fiscal year, whichever is less. 64730

Section 88.05. HIGHER EDUCATION - BOARD OF TRUSTEES 64731

Funds appropriated for instructional subsidies at colleges 64732
and universities may be used to provide such branch or other 64733
off-campus undergraduate courses of study and such master's degree 64734
courses of study as may be approved by the Board of Regents. 64735

In providing instructional and other services to students, 64736
boards of trustees of state-assisted institutions of higher 64737

education shall supplement state subsidies by income from charges 64738
to students. Each board shall establish the fees to be charged to 64739
all students, including an instructional fee for educational and 64740
associated operational support of the institution and a general 64741
fee for noninstructional services, including locally financed 64742
student services facilities used for the benefit of enrolled 64743
students. The instructional fee and the general fee shall 64744
encompass all charges for services assessed uniformly to all 64745
enrolled students. Each board may also establish special purpose 64746
fees, service charges, and fines as required; such special purpose 64747
fees and service charges shall be for services or benefits 64748
furnished individual students or specific categories of students 64749
and shall not be applied uniformly to all enrolled students. 64750
Except for the board of trustees of Miami University in 64751
implementing the pilot tuition restructuring plan recognized by 64752
this section, a tuition surcharge shall be paid by all students 64753
who are not residents of Ohio. 64754

The boards of trustees of individual state-assisted 64755
universities, university branch campuses, community colleges, 64756
state community colleges, and technical colleges shall limit 64757
in-state undergraduate instructional and general fee increases for 64758
an academic year over the amounts charged in the prior academic 64759
year to no more than six per cent. In addition to the six per cent 64760
main campus in-state undergraduate instructional and general fee 64761
increase limit established in this section, the Board of Trustees 64762
of The Ohio State University may authorize an additional 64763
university main campus in-state undergraduate instructional and 64764
general fee increase of three per cent for academic years 64765
2003-2004 and 2004-2005. The Board of Trustees of The Ohio State 64766
University and individual state-assisted universities, university 64767
branch campuses, community colleges, state community colleges, and 64768
technical colleges with instructional and general fees below the 64769
average for their respective sector, may charge an additional fee 64770

of \$300 to in-coming students. The boards of trustees of 64771
individual state-assisted universities, university branch 64772
campuses, community colleges, state community colleges, and 64773
technical colleges shall not authorize combined instructional and 64774
general fee increases of more than six per cent in a single vote. 64775
These fee increase limitations apply even if an institutional 64776
board of trustees has, prior to the effective date of this 64777
section, voted to assess a higher fee for the 2003-2004 academic 64778
year. These limitations shall not apply to increases required to 64779
comply with institutional covenants related to their obligations 64780
or to meet unfunded legal mandates or legally binding obligations 64781
incurred or commitments made prior to the effective date of this 64782
act with respect to which the institution had identified such fee 64783
increases as the source of funds. Any increase required by such 64784
covenants and any such mandates, obligations, or commitments shall 64785
be reported by the Board of Regents to the Controlling Board. 64786
These limitations may also be modified by the Board of Regents, 64787
with the approval of the Controlling Board, to respond to 64788
exceptional circumstances as identified by the Board of Regents. 64789

The boards of trustees of individual state-assisted 64790
universities, university branch campuses, community colleges, 64791
state community colleges, and technical colleges shall place 64792
moratoriums during fiscal years 2004 and 2005 on the creation, 64793
acquisition, and expansion of academic programs, capital projects, 64794
real estate, and student centers, except for those for which the 64795
Ohio Board of Regents has approved a resolution prior to July 1, 64796
2003, to create, acquire, expand, or finance, and except for those 64797
otherwise specified in legislation enacted prior to July 1, 2003, 64798
and except for requests meeting the review and approval of the 64799
Third Frontier Commission. The Third Frontier Commission shall 64800
review only those requests that seek to establish or enhance the 64801
research and development and the workforce position of the state 64802
or a region of the state. Any such requests approved by the Third 64803

Frontier Commission shall require the review and approval of the Controlling Board. Notwithstanding anything to the contrary in this paragraph, the board of trustees of a state-assisted university, university branch campus, community college, state community college, or technical college may seek approval by the Controlling Board for an action not otherwise permitted by this paragraph for exceptional circumstances.

State-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges shall not seek the appropriation of funds for, or transfer or seek approval to transfer funds to, any project not specified in Am. Sub. H.B. 850 of the 122nd General Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, Am. Sub. H.B. 675 of the 124th General Assembly, or any other act enacted after June 30, 1998. Notwithstanding anything to the contrary in this paragraph, the board of trustees of a state-assisted university, university branch campus, community college, state community college, or technical college may seek approval by the Controlling Board for an action not otherwise permitted by this paragraph for exceptional circumstances.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees. This prohibition is not intended to limit the authority of the board of trustees of Miami University in providing financial assistance to students in implementing the

pilot tuition restructuring plan recognized by this section. 64836

Except for Miami University in implementing the pilot tuition 64837
restructuring plan recognized by this section, each state-assisted 64838
institution of higher education in its statement of charges to 64839
students shall separately identify the instructional fee, the 64840
general fee, the tuition charge, and the tuition surcharge. Fee 64841
charges to students for instruction shall not be considered to be 64842
a price of service but shall be considered to be an integral part 64843
of the state government financing program in support of higher 64844
educational opportunity for students. 64845

In providing the appropriations in support of instructional 64846
services at state-assisted institutions of higher education and 64847
the appropriations for other instruction it is the intent of the 64848
General Assembly that faculty members shall devote a proper and 64849
judicious part of their work week to the actual instruction of 64850
students. Total class credit hours of production per quarter per 64851
full-time faculty member is expected to meet the standards set 64852
forth in the budget data submitted by the Board of Regents. 64853

The authority of government vested by law in the boards of 64854
trustees of state-assisted institutions of higher education shall 64855
in fact be exercised by those boards. Boards of trustees may 64856
consult extensively with appropriate student and faculty groups. 64857
Administrative decisions about the utilization of available 64858
resources, about organizational structure, about disciplinary 64859
procedure, about the operation and staffing of all auxiliary 64860
facilities, and about administrative personnel shall be the 64861
exclusive prerogative of boards of trustees. Any delegation of 64862
authority by a board of trustees in other areas of responsibility 64863
shall be accompanied by appropriate standards of guidance 64864
concerning expected objectives in the exercise of such delegated 64865
authority and shall be accompanied by periodic review of the 64866
exercise of this delegated authority to the end that the public 64867

interest, in contrast to any institutional or special interest, 64868
shall be served. 64869

The General Assembly recognizes the pilot tuition 64870
restructuring plan of the board of trustees of Miami University 64871
for undergraduate students enrolled at the Oxford campus. The 64872
purpose of this plan is to make higher education more affordable 64873
for moderate income Ohioans, encourage high-achieving Ohio 64874
students to stay in Ohio rather than attending colleges in other 64875
states, and provide incentives for Ohio students to major in areas 64876
crucial to Ohio's priorities and future economic development. 64877

Notwithstanding any limit on in-state undergraduate 64878
instructional and general fees imposed by this act, the General 64879
Assembly recognizes that the plan will provide that all 64880
undergraduate students enrolled at the Oxford campus will be 64881
charged combined instructional and general fees in an amount equal 64882
to the nonresident instructional and general fees and tuition 64883
surcharge. For both resident student first enrolling on or after 64884
the summer term of 2003 and resident students who enrolled prior 64885
to this date, any increases in fees approved thereafter by the 64886
board of trustees are subject to any instructional and general fee 64887
caps imposed by the General Assembly. 64888

The General Assembly recognizes that the plan provides that 64889
all students who are residents of Ohio will receive student 64890
financial assistance in an amount to be determined by the 64891
University. 64892

The General Assembly recognizes that the plan provides that, 64893
for any resident student who enrolls at the Miami University 64894
Oxford campus prior to August 2004, the plan will have no direct 64895
financial impact except for paper changes on invoices so that such 64896
a student would only pay instructional and general fees in an 64897
amount equivalent to what the student was charged in the preceding 64898
year in addition to any increases in fees approved by the board of 64899

trustees. 64900

For as long as Miami University implements the pilot tuition 64901
restructuring plan, the Ohio tuition trust authority shall not 64902
include the tuition of Miami University in the calculation of the 64903
weighted average tuition of four-year state universities for 64904
purposes of establishing the sale price of a tuition credit under 64905
section 3334.07 of the Revised Code. 64906

Section 88.06. STUDENT SUPPORT SERVICES 64907

The foregoing appropriation item 235-502, Student Support 64908
Services, shall be distributed by the Board of Regents to Ohio's 64909
state-assisted colleges and universities that incur 64910
disproportionate costs in the provision of support services to 64911
disabled students. 64912

OHIO INSTRUCTIONAL GRANTS 64913

Notwithstanding section 3333.12 of the Revised Code, in lieu 64914
of the tables in that section, instructional grants for all 64915
full-time students shall be made for fiscal year 2004 using the 64916
tables under this heading. 64917

The tables under this heading prescribe the maximum grant 64918
amounts covering two semesters, three quarters, or a comparable 64919
portion of one academic year. The grant amount for a full-time 64920
student enrolled in an eligible institution for a semester or 64921
quarter in addition to the portion of the academic year covered by 64922
a grant determined under these tables shall be a percentage of the 64923
maximum prescribed in the applicable table. The maximum grant for 64924
a fourth quarter shall be one-third of the maximum amount 64925
prescribed under the table. The maximum grant for a third semester 64926
shall be one-half of the maximum amount prescribed under the 64927
table. 64928

For a full-time student who is a dependent and enrolled in a 64929

nonprofit educational institution that is not a state-assisted 64930
institution and that has a certificate of authorization issued 64931
pursuant to Chapter 1713. of the Revised Code, the amount of the 64932
instructional grant for two semesters, three quarters, or a 64933
comparable portion of the academic year shall be determined in 64934
accordance with the following table: 64935

Private Institution 64936

Table of Grants 64937

Maximum Grant \$5,466 64938

Gross Income Number of Dependents 64939

	1	2	3	4	5 or more	
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	64941
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	64942
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	64943
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	64944
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	64945
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	64946
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	64947
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	64948
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	64949
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	64950
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	64951
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	64952
\$34,001 - \$35,000	444	888	984	1,080	1,344	64953
\$35,001 - \$36,000	--	444	888	984	1,080	64954
\$36,001 - \$37,000	--	--	444	888	984	64955
\$37,001 - \$38,000	--	--	--	444	888	64956
\$38,001 - \$39,000	--	--	--	--	444	64957

For a full-time student who is financially independent and 64958
enrolled in a nonprofit educational institution that is not a 64959
state-assisted institution and that has a certificate of 64960
authorization issued pursuant to Chapter 1713. of the Revised 64961

Code, the amount of the instructional grant for two semesters, 64962
 three quarters, or a comparable portion of the academic year shall 64963
 be determined in accordance with the following table: 64964

Private Institution 64965

Table of Grants 64966

Maximum Grant \$5,466 64967

Gross Income Number of Dependents 64968

	0	1	2	3	4	5 or more	
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	64970
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	64971
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466	64972
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466	64973
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466	64974
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466	64975
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028	64976
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584	64977
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158	64978
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726	64979
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282	64980
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838	64981
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394	64982
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166	64983
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848	64984
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662	64985
\$25,301 - \$30,300	--	324	438	546	1,014	1,476	64986
\$30,301 - \$35,300	--	198	216	270	324	792	64987

For a full-time student who is a dependent and enrolled in an 64988
 educational institution that holds a certificate of registration 64989
 from the state board of career colleges and schools or a private 64990
 institution exempt from regulation under Chapter 3332. of the 64991
 Revised Code as prescribed in section 3333.046 of the Revised 64992
 Code, the amount of the instructional grant for two semesters, 64993

three quarters, or a comparable portion of the academic year shall 64994
 be determined in accordance with the following table: 64995

Career Institution 64996

Table of Grants 64997

Maximum Grant \$4,632 64998

Gross Income Number of Dependents 64999

	1	2	3	4	5 or more	
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	65000
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	65001
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	65002
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	65003
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	65004
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	65005
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	65006
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	65007
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	65008
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	65009
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	65010
\$33,001 - \$34,000	750	852	906	1,134	1,416	65011
\$34,001 - \$35,000	372	750	852	906	1,134	65012
\$35,001 - \$36,000	--	372	750	852	906	65013
\$36,001 - \$37,000	--	--	372	750	852	65014
\$37,001 - \$38,000	--	--	--	372	750	65015
\$38,001 - \$39,000	--	--	--	--	372	65016

For a full-time student who is financially independent and 65018
 enrolled in an educational institution that holds a certificate of 65019
 registration from the state board of career colleges and schools 65020
 or a private institution exempt from regulation under Chapter 65021
 3332. of the Revised Code as prescribed in section 3333.046 of the 65022
 Revised Code, the amount of the instructional grant for two 65023
 semesters, three quarters, or a comparable portion of the academic 65024
 year shall be determined in accordance with the following table: 65025

	Career Institution						65026
	Table of Grants						65027
	Maximum Grant \$4,632						65028
Gross Income	Number of Dependents						65029
	0	1	2	3	4	5 or more	65030
Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	65031
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	65032
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632	65033
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632	65034
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632	65035
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632	65036
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272	65037
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876	65038
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504	65039
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156	65040
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760	65041
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412	65042
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058	65043
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836	65044
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560	65045
\$22,301 - \$25,300	--	372	456	858	1,242	1,416	65046
\$25,301 - \$30,300	--	282	372	456	858	1,242	65047
\$30,301 - \$35,300	--	168	180	228	282	666	65048

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						65054
	Table of Grants						65055
	Maximum Grant \$2,190						65056
Gross Income	Number of Dependents						65057

	1	2	3	4	5 or more	65058
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	65059
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	65060
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	65061
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	65062
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	65063
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	65064
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	65065
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	65066
\$28,001 - \$31,000	522	648	864	1,080	1,320	65067
\$31,001 - \$32,000	420	522	648	864	1,080	65068
\$32,001 - \$33,000	384	420	522	648	864	65069
\$33,001 - \$34,000	354	384	420	522	648	65070
\$34,001 - \$35,000	174	354	384	420	522	65071
\$35,001 - \$36,000	--	174	354	384	420	65072
\$36,001 - \$37,000	--	--	174	354	384	65073
\$37,001 - \$38,000	--	--	--	174	354	65074
\$38,001 - \$39,000	--	--	--	--	174	65075

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							65081
Table of Grants							65082
Maximum Grant \$2,190							65083
Gross Income	Number of Dependents						65084
	0	1	2	3	4	5 or more	65085
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	65086
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	65087
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190	65088

\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190	65089
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190	65090
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190	65091
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016	65092
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830	65093
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674	65094
\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494	65095
\$11,801 - \$13,300	384	774	858	954	1,128	1,302	65096
\$13,301 - \$14,800	354	744	774	858	954	1,128	65097
\$14,801 - \$16,300	174	678	744	774	858	954	65098
\$16,301 - \$19,300	--	450	630	702	774	858	65099
\$19,301 - \$22,300	--	216	402	594	654	732	65100
\$22,301 - \$25,300	--	174	216	402	594	654	65101
\$25,301 - \$30,300	--	132	174	216	402	594	65102
\$30,301 - \$35,300	--	78	84	102	132	312	65103

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 65121
from the Ohio Board of Regents under Chapter 1713. of the Revised 65122
Code, in accordance with the provisions of section 5910.04 of the 65123
Revised Code, and to fund additional scholarship benefits provided 65124
by section 5910.032 of the Revised Code. 65125

Section 88.07. AIR FORCE INSTITUTE OF TECHNOLOGY 65126

The foregoing appropriation item 235-508, Air Force Institute 65127
of Technology, shall be used to strengthen the research and 65128
educational linkages between the Wright Patterson Air Force Base 65129
and institutions of higher education in Ohio. Of the foregoing 65130
appropriation item 235-508, Air Force Institute of Technology, 65131
\$1,380,000 in fiscal year 2004 and \$1,380,000 in fiscal year 2005 65132
shall be used for research projects that connect the Air Force 65133
Research Laboratories with university partners. The institute 65134
shall provide annual reports to the Third Frontier Commission, 65135
that discuss existing, planned, or possible collaborations between 65136
programs and funding recipients related to technology, research 65137
development, commercialization, and support for Ohio's economic 65138
development. 65139

Of the foregoing appropriation item 235-508, Air Force 65140
Institute of Technology, \$500,000 in each fiscal year shall be 65141
used to match federal dollars to support the Wright Brothers 65142
Institute. Funds shall be used by the Wright Brothers Institute to 65143
create or expand Ohio-based technology and commercial development 65144
collaborations between industry, academia, and government in areas 65145
which include carbon nano-tube materials technology, genome-based 65146
biotechnology, knowledge-creation information technology, 65147
cognitive systems modeling and engineering, or other related 65148
projects as deemed appropriate by the institute. 65149

OHIO SUPERCOMPUTER CENTER 65150

The foregoing appropriation item 235-510, Ohio Supercomputer 65151

Center, shall be used by the Board of Regents to support the 65152
operation of the center, located at The Ohio State University, as 65153
a statewide resource available to Ohio research universities both 65154
public and private. It is also intended that the center be made 65155
accessible to private industry as appropriate. Policies of the 65156
center shall be established by a governance committee, 65157
representative of Ohio's research universities and private 65158
industry, to be appointed by the Chancellor of the Board of 65159
Regents and established for this purpose. 65160

The Ohio Supercomputer Center shall report on expanding 65161
solutions-oriented, computational science services to industrial 65162
and other customers, including alignment programs and recipients, 65163
and develop a plan for a computational science initiative in 65164
collaboration with the Wright Centers of Innovation program and 65165
the Computer Science Graduate Studies Program. 65166

COOPERATIVE EXTENSION SERVICE 65167

The foregoing appropriation item 235-511, Cooperative 65168
Extension Service, shall be disbursed through the Board of Regents 65169
to The Ohio State University in monthly payments, unless otherwise 65170
determined by the Director of Budget and Management pursuant to 65171
section 126.09 of the Revised Code. 65172

Of the foregoing appropriation item 235-511, Cooperative 65173
Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in 65174
fiscal year 2005 shall be used for additional staffing for county 65175
agents for expanded 4-H activities. Of the foregoing appropriation 65176
item 235-511, Cooperative Extension Service, \$182,842 in fiscal 65177
year 2004 and \$178,271 in fiscal year 2005 shall be used by the 65178
Cooperative Extension Service, through the Enterprise Center for 65179
Economic Development in cooperation with other agencies, for a 65180
public-private effort to create and operate a small business 65181
economic development program to enhance the development of 65182
alternatives to the growing of tobacco, and implement, through 65183

applied research and demonstration, the production and marketing 65184
of other high-value crops and value-added products. Of the 65185
foregoing appropriation item 235-511, Cooperative Extension 65186
Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 65187
2005 shall be used for farm labor mediation and education 65188
programs. Of the foregoing appropriation item 235-511, Cooperative 65189
Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in 65190
fiscal year 2005 shall be used to support the Ohio State 65191
University Marion Enterprise Center. 65192

Of the foregoing appropriation item 235-511, Cooperative 65193
Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in 65194
fiscal year 2005 shall be used to support the Ohio Watersheds 65195
Initiative. 65196

CENTRAL STATE SUPPLEMENT 65197

The foregoing appropriation item 235-514, Central State 65198
Supplement, shall be used by Central State University to keep 65199
undergraduate fees below the statewide average, consistent with 65200
its mission of service to many first-generation college students 65201
from groups historically underrepresented in higher education and 65202
from families with limited incomes. 65203

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION 65204

The Board of Regents, in consultation with the state-assisted 65205
medical colleges, shall develop performance standards for medical 65206
education. Special emphasis in the standards shall be placed on 65207
attempting to ensure that at least 50 per cent of the aggregate 65208
number of students enrolled in state-assisted medical colleges 65209
continue to enter residency as primary care physicians. Primary 65210
care physicians are general family practice physicians, general 65211
internal medicine practitioners, and general pediatric care 65212
physicians. The Board of Regents shall monitor medical school 65213
performance in relation to their plans for reaching the 50 per 65214

cent systemwide standard for primary care physicians.	65215
Section 88.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE	65216 65217
The foregoing appropriation item 235-515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Board of Regents in accordance with agreements entered into as provided for by section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.	65218 65219 65220 65221 65222 65223 65224
STATE UNIVERSITY CLINICAL TEACHING	65225
The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical College of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.	65226 65227 65228 65229 65230 65231 65232
Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.	65233 65234 65235 65236 65237
FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE RESIDENCIES	65238 65239
The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation items 235-519, Family Practice, 235-525, Geriatric Medicine, and 235-526, Primary Care Residencies.	65240 65241 65242 65243 65244

SHAWNEE STATE SUPPLEMENT 65245

The foregoing appropriation item 235-520, Shawnee State 65246
Supplement, shall be used by Shawnee State University as detailed 65247
by both of the following: 65248

(A) To allow Shawnee State University to keep its 65249
undergraduate fees below the statewide average, consistent with 65250
its mission of service to an economically depressed Appalachian 65251
region; 65252

(B) To allow Shawnee State University to employ new faculty 65253
to develop and teach in new degree programs that meet the needs of 65254
Appalachians. 65255

POLICE AND FIRE PROTECTION 65256

The foregoing appropriation item 235-524, Police and Fire 65257
Protection, shall be used for police and fire services in the 65258
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 65259
Portsmouth, Xenia Township (Greene County), Rootstown Township, 65260
and the City of Nelsonville, that may be used to assist these 65261
local governments in providing police and fire protection for the 65262
central campus of the state-affiliated university located therein. 65263
Each participating municipality and township shall receive at 65264
least \$5,000 each year. Funds shall be distributed according to 65265
the methodology employed by the Board of Regents in the previous 65266
biennium. 65267

PRIMARY CARE RESIDENCIES 65268

The foregoing appropriation item 235-526, Primary Care 65269
Residencies, shall be distributed in each fiscal year of the 65270
biennium, based on whether or not the institution has submitted 65271
and gained approval for a plan. If the institution does not have 65272
an approved plan, it shall receive five per cent less funding per 65273
student than it would have received from its annual allocation. 65274

The remaining funding shall be distributed among those 65275
institutions that meet or exceed their targets. 65276

OHIO AEROSPACE INSTITUTE 65277

The foregoing appropriation item 235-527, Ohio Aerospace 65278
Institute, shall be distributed by the Board of Regents under 65279
section 3333.042 of the Revised Code. The Board of Regents, in 65280
conjunction with the Third Frontier Commission, shall review the 65281
progress of the Ohio Aerospace Institute's efforts in the context 65282
of the original mission to support academic research and education 65283
in aerospace engineering. These findings will be used to determine 65284
whether or not the institute shall continue to receive state 65285
funding. If a determination is made to discontinue state support 65286
for the Ohio Aerospace Institute through this appropriation item, 65287
the Board of Regents may utilize this appropriation item to fund 65288
other initiatives that support the advancement of aerospace 65289
research or education in aerospace engineering. 65290

ACADEMIC SCHOLARSHIPS 65291

The foregoing appropriation item 235-530, Academic 65292
Scholarships, shall be used to provide academic scholarships to 65293
students under section 3333.22 of the Revised Code. 65294

STUDENT CHOICE GRANTS 65295

The foregoing appropriation item 235-531, Student Choice 65296
Grants, shall be used to support the Student Choice Grant Program 65297
created by section 3333.27 of the Revised Code. The unencumbered 65298
balance of appropriation item 235-531, Student Choice Grants, at 65299
the end of fiscal year 2004 shall be transferred to fiscal year 65300
2005 for use under the same appropriation item to maintain grant 65301
award amounts in fiscal year 2005 equal to the awards provided in 65302
fiscal year 2004. The amounts transferred are hereby appropriated. 65303

STUDENT WORKFORCE DEVELOPMENT GRANTS 65304

The foregoing appropriation item 235-534, Student Workforce Development Grants, shall be used to support the Student Workforce Development Grant Program. Of the appropriated funds available, the Board of Regents shall distribute grants to each eligible student in an academic year. The size of each grant award shall be determined by the Board of Regents based on the amount of funds available for the program.

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the 2003-2005 biennium for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the center. The Ohio Agricultural Research and Development Center, in conjunction with the Third Frontier Commission, shall provide for an independently evaluated self-study of research excellence and commercial relevance in a manner to be prescribed by the Third Frontier Commission.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$470,164 in fiscal year 2004 and \$458,410 in fiscal year 2005 shall be used to purchase equipment.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$827,141 in fiscal year 2004 and \$806,463 in fiscal year 2005 shall be distributed to the Piketon Agricultural Research and Extension Center.

Of the foregoing appropriation item 235-535, Ohio 65336
Agricultural Research and Development Center, \$217,669 in fiscal 65337
year 2004 and \$212,227 in fiscal year 2005 shall be distributed to 65338
the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio 65339
State University Medical College in cooperation with the Ohio 65340
State University College of Agriculture. 65341

Of the foregoing appropriation item 235-535, Ohio 65342
Agricultural Research and Development Center, \$43,534 in fiscal 65343
year 2004 and \$42,445 in fiscal year 2005 shall be used to support 65344
the Ohio Berry Administrator. 65345

Of the foregoing appropriation item 235-535, Ohio 65346
Agricultural Research and Development Center, \$87,067 in fiscal 65347
year 2004 and \$84,890 in fiscal year 2005 shall be used for the 65348
development of agricultural crops and products not currently in 65349
widespread production in Ohio, in order to increase the income and 65350
viability of family farmers. 65351

SCHOOL OF INTERNATIONAL BUSINESS 65352

Of the foregoing appropriation item 235-547, School of 65353
International Business, \$901,975 in fiscal year 2004 and \$879,426 65354
in fiscal year 2005 shall be used for the continued development 65355
and support of the School of International Business of the state 65356
universities of northeast Ohio. The money shall go to the 65357
University of Akron. These funds shall be used by the university 65358
to establish a School of International Business located at the 65359
University of Akron. It may confer with Kent State University, 65360
Youngstown State University, and Cleveland State University as to 65361
the curriculum and other matters regarding the school. 65362

Of the foregoing appropriation item 235-547, School of 65363
International Business, \$181,318 in fiscal year 2004 and \$176,785 65364
in fiscal year 2005 shall be used by the University of Toledo 65365
College of Business for expansion of its international business 65366

programs. 65367

Of the foregoing appropriation item 235-547, School of 65368
International Business, \$181,318 in fiscal year 2004 and \$176,785 65369
in fiscal year 2005 shall be used to support the Ohio State 65370
University BioMEMS program. 65371

PART-TIME STUDENT INSTRUCTIONAL GRANTS 65372

The foregoing appropriation item 235-549, Part-time Student 65373
Instructional Grants, shall be used to support a grant program for 65374
part-time undergraduate students who are Ohio residents and who 65375
are enrolled in degree granting programs. 65376

Eligibility for participation in the program shall include 65377
degree granting educational institutions that hold a certificate 65378
of registration from the State Board of Career Colleges and 65379
Schools, and nonprofit institutions that have a certificate of 65380
authorization issued pursuant to Chapter 1713. of the Revised 65381
Code, as well as state-assisted colleges and universities. Grants 65382
shall be given to students on the basis of need, as determined by 65383
the college, which, in making these determinations, shall give 65384
special consideration to single-parent heads-of-household and 65385
displaced homemakers who enroll in an educational degree program 65386
that prepares the individual for a career. In determining need, 65387
the college also shall consider the availability of educational 65388
assistance from a student's employer. It is the intent of the 65389
General Assembly that these grants not supplant such assistance. 65390

Section 88.09. DAYTON AREA GRADUATE STUDIES INSTITUTE 65391

The foregoing appropriation item 235-553, Dayton Area 65392
Graduate Studies Institute, shall be used by the Board of Regents 65393
to support the Dayton Area Graduate Studies Institute, an 65394
engineering graduate consortium of three universities in the 65395
Dayton area: Wright State University, the University of Dayton, 65396

and the Air Force Institute of Technology, with the participation 65397
of the University of Cincinnati and The Ohio State University. 65398

COMPUTER SCIENCE GRADUATE EDUCATION 65399

The foregoing appropriation item 235-554, Computer Science 65400
Graduate Education, shall be used by the Board of Regents to 65401
support improvements in graduate programs in computer science at 65402
state-assisted universities. Up to \$174,135 in fiscal year 2004, 65403
and up to \$169,782 in fiscal year 2005, may be used to support 65404
collaborative efforts in graduate education in this program area. 65405
The collaborative program shall be coordinated by the Ohio 65406
Supercomputer Center. 65407

OHIO ACADEMIC RESOURCES NETWORK (OARNET) 65408

The foregoing appropriation item 235-556, Ohio Academic 65409
Resources Network, shall be used to support the operations of the 65410
Ohio Academic Resources Network, which shall include support for 65411
Ohio's state-assisted colleges and universities in maintaining and 65412
enhancing network connections. The network shall give priority to 65413
supporting the Third Frontier Network and allocating bandwidth to 65414
programs directly supporting Ohio's economic development. 65415

LONG-TERM CARE RESEARCH 65416

The foregoing appropriation item 235-558, Long-term Care 65417
Research, shall be disbursed to Miami University for long-term 65418
care research. 65419

BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER 65420

The foregoing appropriation item 235-561, Bowling Green State 65421
University Canadian Studies Center, shall be used by the Canadian 65422
Studies Center at Bowling Green State University to study 65423
opportunities for Ohio and Ohio businesses to benefit from the 65424
Free Trade Agreement between the United States and Canada. 65425

THE OHIO STATE UNIVERSITY CLINIC SUPPORT 65426

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

Section 88.10. URBAN UNIVERSITY PROGRAMS

Of the foregoing appropriation item 235-583, Urban University Programs, universities receiving funds that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Programs, \$275,603 in fiscal year 2004 and \$268,714 in fiscal year 2005 shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Programs, \$130,549 in fiscal year 2004 and \$127,286 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the

chance of lifetime success of the urban child, including 65458
interventions beginning with the prenatal period. The primary 65459
purpose of the center is to study issues in urban education and to 65460
systematically map directions for new approaches and new solutions 65461
by bringing together a cadre of researchers, scholars, and 65462
professionals representing the social, behavioral, education, and 65463
health disciplines. 65464

Of the foregoing appropriation item 235-583, Urban University 65465
Programs, \$188,571 in fiscal year 2004 and \$183,857 in fiscal year 65466
2005 shall be used to support the Kent State University Learning 65467
and Technology Project. This project is a kindergarten through 65468
university collaboration between schools surrounding Kent's eight 65469
campuses in northeast Ohio, and corporate partners who will assist 65470
in development and delivery. 65471

The Kent State University Project shall provide a faculty 65472
member who has a full-time role in the development of 65473
collaborative activities and teacher instructional programming 65474
between Kent and the K-12th grade schools that surround its eight 65475
campuses; appropriate student support staff to facilitate these 65476
programs and joint activities; and hardware and software to 65477
schools that will make possible the delivery of instruction to 65478
pre-service and in-service teachers, and their students, in their 65479
own classrooms or school buildings. This shall involve the 65480
delivery of low-bandwidth streaming video and web-based 65481
technologies in a distributed instructional model. 65482

Of the foregoing appropriation item 235-583, Urban University 65483
Programs, \$72,527 in fiscal year 2004 and \$70,714 in fiscal year 65484
2005 year shall be used to support the Ameritech Classroom/Center 65485
for Research at Kent State University. 65486

Of the foregoing appropriation item 235-583, Urban University 65487
Programs, \$725,273 in fiscal year 2004 and \$707,141 in fiscal year 65488
2005 year shall be used to support the Polymer Distance Learning 65489

Project at the University of Akron. 65490

Of the foregoing appropriation item 235-583, Urban University 65491
Programs, \$36,264 in fiscal year 2004 and \$35,357 in fiscal year 65492
2005 shall be distributed to the Kent State University/Cleveland 65493
Design Center program. 65494

Of the foregoing appropriation item 235-583, Urban University 65495
Programs, \$181,318 in fiscal year 2004 and \$176,785 in fiscal year 65496
2005 shall be used to support the Bliss Institute of Applied 65497
Politics at the University of Akron. 65498

Of the foregoing appropriation item 235-583, Urban University 65499
Programs, \$10,880 in fiscal year 2004 and \$10,606 in fiscal year 65500
2005 shall be used for the Advancing-Up Program at the University 65501
of Akron. 65502

Of the foregoing appropriation item 235-583, Urban University 65503
Programs, \$1,596,064 in fiscal year 2004 and \$1,556,163 in fiscal 65504
year 2005 shall be distributed by the Board of Regents to 65505
Cleveland State University in support of the Maxine Goodman Levin 65506
College of Urban Affairs. 65507

Of the foregoing appropriation item 235-583, Urban University 65508
Programs, \$1,596,064 in fiscal year 2004 and \$1,556,163 in fiscal 65509
year 2005 shall be distributed to the Northeast Ohio Research 65510
Consortium, the Urban Linkages Program, and the Urban Research 65511
Technical Assistance Grant Program. The distribution among the 65512
three programs shall be determined by the chair of the Urban 65513
University Program. 65514

RURAL UNIVERSITY PROJECTS 65515

Of the foregoing appropriation item 235-587, Rural University 65516
Projects, Bowling Green State University shall receive \$156,949 in 65517
fiscal year 2004 and \$153,025 in fiscal year 2005, Miami 65518
University shall receive \$240,156 in fiscal year 2004 and \$234,152 65519
in fiscal year 2005, and Ohio University shall receive \$548,378 in 65520

fiscal year 2004 and \$534,668 in fiscal year 2005. These funds 65521
shall be used to support the Institute for Local Government 65522
Administration and Rural Development at Ohio University, the 65523
Center for Public Management and Regional Affairs at Miami 65524
University, and the Center for Policy Analysis and Public Service 65525
at Bowling Green State University. 65526

Of the foregoing appropriation item 235-587, Rural University 65527
Projects, \$18,131 in fiscal year 2004 and \$17,678 in fiscal year 65528
2005 shall be used to support the Washington State Community 65529
College day care center. 65530

Of the foregoing appropriation item 235-587, Rural University 65531
Projects, \$54,396 in fiscal year 2004 and \$53,036 in fiscal year 65532
2005 shall be used to support the COAD/ILGARD/GOA Appalachian 65533
Leadership Initiative. 65534

A small portion of the funds provided to Ohio University 65535
shall also be used for the Institute for Local Government 65536
Administration and Rural Development State and Rural Policy 65537
Partnership with the Governor's Office of Appalachia and the 65538
Appalachian delegation of the General Assembly. 65539

Section 88.11. OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, 65540
AND READING 65541

The foregoing appropriation item 235-588, Ohio Resource 65542
Center for Mathematics, Science, and Reading, shall be used to 65543
support a resource center for mathematics, science, and reading to 65544
be located at a state-assisted university for the purpose of 65545
identifying best educational practices in primary and secondary 65546
schools and establishing methods for communicating them to 65547
colleges of education and school districts. 65548

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT 65549

The foregoing appropriation item 235-595, International 65550

Center for Water Resources Development, shall be used to support 65551
the International Center for Water Resources Development at 65552
Central State University. The center shall develop methods to 65553
improve the management of water resources for Ohio and for 65554
emerging nations. 65555

HAZARDOUS MATERIALS PROGRAM 65556

The foregoing appropriation item 235-596, Hazardous Materials 65557
Program, shall be disbursed to Cleveland State University for the 65558
operation of a program to certify firefighters for the handling of 65559
hazardous materials. Training shall be available to all Ohio 65560
firefighters. 65561

Of the foregoing appropriation item 235-596, Hazardous 65562
Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in 65563
fiscal year 2005 shall be used to support the Center for the 65564
Interdisciplinary Study of Education and Leadership in Public 65565
Service at Cleveland State University. These funds shall be 65566
distributed by the Board of Regents and shall be used by the 65567
center targeted toward increasing the role of special populations 65568
in public service and not-for-profit organizations. The primary 65569
purpose of the center is to study issues in public service and to 65570
guide strategies for attracting new communities into public 65571
service occupations by bringing together a cadre of researchers, 65572
scholars and professionals representing the public administration, 65573
social behavioral, and education disciplines. 65574

NATIONAL GUARD SCHOLARSHIP PROGRAM 65575

The Board of Regents shall disburse funds from appropriation 65576
item 235-599, National Guard Scholarship Program, at the direction 65577
of the Adjutant General. 65578

* PLEDGE OF FEES 65579

Any new pledge of fees, or new agreement for adjustment of 65580
fees, made in the 2003-2005 biennium to secure bonds or notes of a 65581

state-assisted institution of higher education for a project for 65582
which bonds or notes were not outstanding on the effective date of 65583
this section shall be effective only after approval by the Board 65584
of Regents, unless approved in a previous biennium. 65585

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE 65586

The foregoing appropriation item 235-909, Higher Education 65587
General Obligation Debt Service, shall be used to pay all debt 65588
service and related financing costs at the times they are required 65589
to be made pursuant to sections 151.01 and 151.04 of the Revised 65590
Code during the period from July 1, 2003, to June 30, 2005. The 65591
Office of the Sinking Fund or the Director of Budget and 65592
Management shall effectuate the required payments by an intrastate 65593
transfer voucher. 65594

Section 88.12. OHIO HIGHER EDUCATIONAL FACILITY COMMISSION 65595
SUPPORT 65596

The foregoing appropriation item 235-602, Higher Educational 65597
Facility Commission Administration, shall be used by the Board of 65598
Regents for operating expenses related to the Board of Regents' 65599
support of the activities of the Ohio Higher Educational Facility 65600
Commission. Upon the request of the chancellor, the Director of 65601
Budget and Management shall transfer up to \$20,000 cash from Fund 65602
461 to Fund 4E8 in each fiscal year of the biennium. 65603

PHYSICIAN LOAN REPAYMENT 65604

The foregoing appropriation item 235-604, Physician Loan 65605
Repayment, shall be used in accordance with sections 3702.71 to 65606
3702.81 of the Revised Code. 65607

NURSING LOAN PROGRAM 65608

The foregoing appropriation item 235-606, Nursing Loan 65609
Program, shall be used to administer the nurse education 65610
assistance program. Up to \$159,600 in fiscal year 2004 and 65611

\$167,580 in fiscal year 2005 may be used for operating expenses 65612
associated with the program. Any additional funds needed for the 65613
administration of the program are subject to Controlling Board 65614
approval. 65615

Section 88.13. SCIENCE AND TECHNOLOGY COLLABORATION 65616

The Board of Regents shall work in close collaboration with 65617
the Department of Development, Air Quality Development Authority, 65618
and the Third Frontier Commission in relation to appropriation 65619
items and programs listed in the following paragraph, and other 65620
technology-related appropriations and programs in the Department 65621
of Development and the Board of Regents as these agencies may 65622
designate, to ensure implementation of a coherent state strategy 65623
with respect to science and technology. 65624

Each of the following appropriations and programs: 195-401, 65625
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 65626
Third Frontier Action Fund; 898-604, Coal Research and Development 65627
Fund; 235-454, Research Challenge; 235-508, Air Force Institute of 65628
Technology; 235-510, Ohio Supercomputer Center; 235-527, Ohio 65629
Aerospace Institute; 235-535, Ohio Agricultural Research and 65630
Development Center; 235-553, Dayton Area Graduate Studies 65631
Institute; 235-554, Computer Science Graduate Education; 235-556, 65632
Ohio Academic Resources Network; and 195-405, Biomedical Research 65633
and Technology Transfer Trust, shall be reviewed annually by the 65634
Third Frontier Commission with respect to its development of 65635
complementary relationships within a combined state science and 65636
technology investment portfolio and its overall contribution to 65637
the state's science and technology strategy, including the 65638
adoption of appropriately consistent criteria for: (1) the 65639
scientific merit of activities supported by the program; (2) the 65640
relevance of the program's activities to commercial opportunities 65641
in the private sector; (3) the private sector's involvement in a 65642

process that continually evaluates commercial opportunities to use 65643
the work supported by the program; and (4) the ability of the 65644
program and recipients of grant funding from the program to engage 65645
in activities that are collaborative, complementary, and efficient 65646
with respect to the expenditure of state funds. All programs 65647
listed above shall provide annual reports to the Third Frontier 65648
Commission discussing existing, planned, or possible 65649
collaborations between programs and recipients of grant funding 65650
related to technology, development, commercialization, and 65651
supporting Ohio's economic development. The annual review by the 65652
Third Frontier Commission shall be a comprehensive review of the 65653
entire state science and technology program portfolio rather than 65654
a review of individual programs. 65655

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS 65656

Notwithstanding any provision of law to the contrary, all 65657
repayments of Research Facility Investment Fund loans shall be 65658
made to the Bond Service Trust Fund. All Research Facility 65659
Investment Fund loan repayments made prior to the effective date 65660
of this section shall be transferred by the Director of Budget and 65661
Management to the Bond Service Trust Fund within sixty days of the 65662
effective date of this section. 65663

Campuses shall make timely repayments of Research Facility 65664
Investment Fund loans, according to the schedule established by 65665
the Board of Regents. In the case of late payments, the Board of 65666
Regents may deduct from an institution's periodic subsidy 65667
distribution an amount equal to the amount of the overdue payment 65668
for that institution, transfer such amount to the Bond Service 65669
Trust Fund, and credit the appropriate institution for the 65670
repayment. 65671

VETERANS' PREFERENCES 65672

The Board of Regents shall work with the Governor's Office of 65673

Veterans' Affairs to develop specific veterans' preference 65674
guidelines for higher education institutions. These guidelines 65675
shall ensure that the institutions' hiring practices are in 65676
accordance with the intent of Ohio's veterans' preference laws. 65677

Section 88.14. COMPREHENSIVE PLAN FOR HIGHER EDUCATION 65678

(A) The Board of Regents shall develop a comprehensive plan 65679
for higher education that includes all of the following: 65680

(1) The plan shall seek to eliminate duplications of academic 65681
programs at the graduate, professional, and doctoral levels. In 65682
eliminating duplications, the Board of Regents shall consider 65683
either a statewide or regional approach. 65684

(2) The plan shall identify public and private higher 65685
education institutions to recommend as part of an Ohio Centers of 65686
Excellence program. 65687

(3) The plan shall recommend that the six current 65688
state-supported medical colleges be consolidated into a Public 65689
Medical College System consisting of three institutions focusing 65690
on academics and research and three institutions focusing on 65691
clinical teaching and clinical research. 65692

(B) Not later than April 1, 2004, the Board of Regents shall 65693
submit its comprehensive plan for higher education to the General 65694
Assembly for the General Assembly's approval. 65695

Section 88.15. STUDY OF POSSIBLE MERGER OF COLLOCATED 65696
INSTITUTIONS 65697

The Board of Regents shall review and study the possibility 65698
of merging collocated state-assisted institutions of higher 65699
education and merging the administrations of those institutions, 65700
to optimize the use of state and student funds and to generate 65701
efficiencies where possible. For the purpose of this study, the 65702

administrations of the institutions that are recommended for 65703
merger shall exclude administrators at the levels of dean and 65704
below. The Board of Regents shall report its findings and 65705
recommendations to the General Assembly not later than May 15, 65706
2004. 65707

Section 89. DRC DEPARTMENT OF REHABILITATION AND CORRECTION 65708

General Revenue Fund 65709

GRF 501-321 Institutional \$ 850,381,155 \$ 861,557,899 65710
Operations

GRF 501-403 Prisoner Compensation \$ 8,705,052 \$ 8,705,052 65711

GRF 501-405 Halfway House \$ 37,640,139 \$ 38,079,419 65712

GRF 501-406 Lease Rental Payments \$ 141,997,000 \$ 146,307,900 65713

GRF 501-407 Community \$ 15,161,353 \$ 15,352,814 65714

Nonresidential

Programs

GRF 501-408 Community Misdemeanor \$ 7,942,211 \$ 8,041,489 65715

Programs

GRF 501-501 Community Residential \$ 54,720,123 \$ 55,372,875 65716

Programs - CBCF

GRF 502-321 Mental Health Services \$ 67,302,290 \$ 68,265,662 65717

GRF 503-321 Parole and Community \$ 77,695,938 \$ 78,845,845 65718

Operations

GRF 504-321 Administrative \$ 24,533,707 \$ 24,920,848 65719

Operations

GRF 505-321 Institution Medical \$ 118,406,940 \$ 120,014,320 65720

Services

GRF 506-321 Institution Education \$ 21,835,287 \$ 22,247,574 65721

Services

GRF 507-321 Institution Recovery \$ 7,018,500 \$ 7,124,516 65722

Services

TOTAL GRF General Revenue Fund \$ 1,433,339,695 \$ 1,454,836,213 65723

General Services Fund Group 65724

4B0	501-601	Penitentiary Sewer Treatment Facility Services	\$	1,693,129	\$	1,758,177	65725
4D4	501-603	Prisoner Programs	\$	20,537,291	\$	20,967,703	65726
4L4	501-604	Transitional Control	\$	1,348,740	\$	1,593,794	65727
4S5	501-608	Education Services	\$	4,452,754	\$	4,564,072	65728
483	501-605	Property Receipts	\$	383,894	\$	393,491	65729
5H8	501-617	Offender Financial Responsibility	\$	735,000	\$	774,020	65730
5L6	501-611	Information Technology Services	\$	3,650,712	\$	3,741,980	65731
571	501-606	Training Academy Receipts	\$	73,356	\$	75,190	65732
593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423	65733
TOTAL GSF General Services Fund Group			\$	37,582,606	\$	38,693,850	65734
Federal Special Revenue Fund Group							65735
3S1	501-615	Truth-In-Sentencing Grants	\$	24,604,435	\$	25,517,173	65736
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335	65737
TOTAL FED Federal Special Revenue Fund Group							65738
			\$	35,363,764	\$	36,817,508	65739
Intragovernmental Service Fund Group							65740
148	501-602	Services and Agricultural	\$	95,207,653	\$	95,207,653	65741
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879	65742
TOTAL ISF Intragovernmental Service Fund Group							65743
			\$	124,955,828	\$	126,699,532	65744
TOTAL ALL BUDGET FUND GROUPS			\$	1,631,241,893	\$	1,657,047,103	65745
ZERO-BASED BUDGETING							65746
The Director of Budget and Management shall prepare a full							65747
zero-based budget for the biennium ending June 30, 2007, for the							65748

Department of Rehabilitation and Correction. The Director shall 65749
offer the Department substantial technical assistance throughout 65750
the process of preparing its zero-based budget. The Department 65751
shall prepare a full zero-based budget in such manner and 65752
according to such schedule as the Director of Budget and 65753
Management requires. The zero-based budget shall, as the Director 65754
of Budget and Management determines, be in addition to or in place 65755
of the estimates of revenue and proposed expenditures that the 65756
Department otherwise would be required to prepare under section 65757
126.02 of the Revised Code. 65758

OHIO BUILDING AUTHORITY LEASE PAYMENTS 65759

The foregoing appropriation item 501-406, Lease Rental 65760
Payments, shall be used for payments to the Ohio Building 65761
Authority for the period July 1, 2003, to June 30, 2005, pursuant 65762
to the primary leases and agreements for those buildings made 65763
under Chapter 152. of the Revised Code but limited to the 65764
aggregate amount of \$288,304,900. This appropriation amount is the 65765
source of funds pledged for bond service charges on related 65766
obligations issued pursuant to Chapter 152. of the Revised Code. 65767

PRISONER COMPENSATION 65768

Money from the foregoing appropriation item 501-403, Prisoner 65769
Compensation, shall be transferred on a quarterly basis by 65770
intrastate transfer voucher to the Services and Agricultural Fund 65771
(Fund 148) for the purposes of paying prisoner compensation. 65772

Section 90. RSC REHABILITATION SERVICES COMMISSION 65773

General Revenue Fund 65774

GRF 415-100 Personal Services \$ 8,506,587 \$ 8,506,587 65775

GRF 415-402 Independent Living \$ 12,040 \$ 12,040 65776

Council

GRF 415-403 Mental Health Services \$ 717,221 \$ 717,221 65777

GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816	65778
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912	65779
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531	65780
GRF 415-431	Office for People with Brain Injury	\$	182,364	\$	182,364	65781
GRF 415-506	Services for People with Disabilities	\$	11,830,306	\$	12,185,215	65782
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377	65783
GRF 415-520	Independent Living Services	\$	48,208	\$	48,208	65784
TOTAL GRF	General Revenue Fund	\$	23,501,362	\$	23,856,271	65785
	General Services Fund Group					65786
4W5 415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040	65787
467 415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082	65788
TOTAL GSF	General Services Fund Group	\$	19,601,088	\$	20,189,122	65789
	Federal Special Revenue Fund Group					65791
3L1 415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032	65792
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	65793
3L1 415-607	Social Security Administration Cost	\$	174,119	\$	175,860	65794
3L1 415-608	Social Security Special	\$	6,941,158	\$	6,941,158	65795

Rehabilitation Services Commission and the Department of Mental 65815
Retardation and Developmental Disabilities. The Rehabilitation 65816
Services Commission shall report to the Department of Mental 65817
Retardation and Developmental Disabilities, as outlined in an 65818
interagency agreement, on the number and status of mutually 65819
eligible clients and the status of the funds and expenditures for 65820
these clients. 65821

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 65822

The foregoing appropriation item 415-405, Vocational 65823
Rehabilitation/Job and Family Services, shall be used as state 65824
matching funds to provide vocational rehabilitation services to 65825
mutually eligible clients between the Rehabilitation Services 65826
Commission and the Department of Job and Family Services. The 65827
Rehabilitation Services Commission shall report to the Department 65828
of Job and Family Services, as outlined in an interagency 65829
agreement, on the number and status of mutually eligible clients 65830
and the status of the funds and expenditures for these clients. 65831

ASSISTIVE TECHNOLOGY 65832

The foregoing appropriation item 415-406, Assistive 65833
Technology, shall be provided to Assistive Technology of Ohio and 65834
shall be used only to provide grants under that program. No amount 65835
of the appropriation may be used for administrative costs. 65836

OFFICE FOR PEOPLE WITH BRAIN INJURY 65837

Of the foregoing appropriation item 415-431, Office for 65838
People with Brain Injury, \$50,000 in each fiscal year shall be 65839
used for the state match for a federal grant awarded through the 65840
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 65841
in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be 65842
provided to the Brain Injury Trust Fund. The remaining 65843
appropriation in this item shall be used to plan and coordinate 65844
head-injury-related services provided by state agencies and other 65845

government or private entities, to assess the needs for such 65846
services, and to set priorities in this area. 65847

SERVICES FOR THE ELDERLY 65848

The foregoing appropriation item 415-509, Services for the 65849
Elderly, shall be used as matching funds for vocational 65850
rehabilitation services for eligible elderly citizens with a 65851
disability. 65852

SOCIAL SECURITY REIMBURSEMENT FUNDS 65853

Reimbursement funds received from the Social Security 65854
Administration, United States Department of Health and Human 65855
Services, for the costs of providing services and training to 65856
return disability recipients to gainful employment, shall be used 65857
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 65858

(A) Appropriation item 415-601, Social Security Personal Care 65859
Assistance, to provide personal care services in accordance with 65860
section 3304.41 of the Revised Code; 65861

(B) Appropriation item 415-605, Social Security Community 65862
Centers for the Deaf, to provide grants to community centers for 65863
the deaf in Ohio for services to individuals with hearing 65864
impairments; 65865

(C) Appropriation item 415-607, Social Security 65866
Administration Cost, to provide administrative services needed to 65867
administer the Social Security reimbursement program; 65868

(D) Appropriation item 415-608, Social Security Special 65869
Programs/Assistance, to provide vocational rehabilitation services 65870
to individuals with severe disabilities, who are Social Security 65871
beneficiaries, to achieve competitive employment. This item also 65872
includes funds to assist the Personal Care Assistance, Community 65873
Centers for the Deaf, and Independent Living Programs to pay their 65874
share of indirect costs as mandated by federal OMB Circular A-87. 65875

(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to achieve a noncompetitive employment goal.

ADMINISTRATIVE EXPENSES

The foregoing appropriation item 415-606, Administrative Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415-402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council.

MENTAL HEALTH SERVICES

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health.

The Department of Mental Health shall receive a quarterly report from the Rehabilitation Services Commission stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked.

INDEPENDENT LIVING SERVICES

The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal-Independent Living Centers or Services, shall be used to support state independent living centers or independent living services pursuant to Title VII of the Independent Living Services and Centers for Independent Living

of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 65906
U.S.C. 796d. 65907

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 65908

The foregoing appropriation item 415-617, Independent 65909
Living/Vocational Rehabilitation Programs, shall be used to 65910
support vocational rehabilitation programs, including, but not 65911
limited to, Projects with Industry, Training Grants, and Brain 65912
Injury Grants. 65913

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 65914

During fiscal years 2004 and 2005, the Rehabilitation 65915
Services Commission may conduct a pilot program to provide 65916
vocational rehabilitation and related services to entities, 65917
employers, or individuals that are not eligible for state or 65918
federally supported services through the commission. The 65919
commission shall propose fees to be collected from the entities, 65920
employers, or individuals served by the pilot program for the 65921
approval of the Controlling Board to support the costs for 65922
vocational rehabilitation and related services provided under the 65923
pilot program. Fee revenues collected under the program shall be 65924
credited to Fund 468 (Third Party Funding). Prior to the 65925
commencement of services through the pilot program, the 65926
Rehabilitation Services Commission shall develop a program plan to 65927
be submitted to the Controlling Board. Any plan revisions or 65928
updates shall be reported to the Controlling Board. During the 65929
implementation of the pilot program, the Rehabilitation Services 65930
Commission shall investigate and determine the possibility of 65931
utilizing this source of revenue to match federal funds. The 65932
Rehabilitation Services Commission shall evaluate the progress of 65933
the pilot program and issue a report of its findings to the 65934
Governor by December 15, 2005. The report shall include a 65935
recommendation to either continue or discontinue the pilot program 65936
in the next biennium. 65937

Section 91. RCB RESPIRATORY CARE BOARD			65938
General Services Fund Group			65939
4K9 872-609 Operating Expenses	\$	318,499 \$	315,481 65940
TOTAL GSF General Services Fund Group			65941
Fund Group	\$	318,499 \$	315,481 65942
TOTAL ALL BUDGET FUND GROUPS			\$ 318,499 \$ 315,481 65943
 Section 92. REVENUE DISTRIBUTION FUNDS			65945
Volunteer Firefighters' Dependents Fund			65946
085 800-900 Volunteer	\$	200,000 \$	200,000 65947
Firefighters'			
Dependents Fund			
TOTAL 085 Volunteer Firefighters' Dependents Fund			65948
Agency Fund Group	\$	200,000 \$	200,000 65949
Agency Fund Group			65950
062 110-900 Resort Area Excise Tax	\$	500,000 \$	500,000 65951
063 110-900 Permissive Tax	\$	1,397,512,400 \$	1,439,437,700 65952
Distribution			
067 110-900 School District Income	\$	154,836,700 \$	161,030,200 65953
Tax Fund			
4P8 001-698 Cash Management	\$	2,500,000 \$	2,500,000 65954
Improvement Fund			
608 001-699 Investment Earnings	\$	174,300,000 \$	181,300,000 65955
TOTAL AGY Agency Fund Group			\$ 1,729,649,100 \$ 1,784,767,900 65956
Holding Account Redistribution			65957
R45 110-617 International Fuel Tax	\$	36,400,000 \$	37,200,000 65958
Distribution			
TOTAL R45 Holding Account Redistribution Fund			\$ 36,400,000 \$ 37,200,000 65959
Revenue Distribution Fund Group			65960
049 038-900 Indigent Drivers	\$	1,850,000 \$	1,850,000 65961

		Alcohol Treatment				
050	762-900	International	\$	60,000,000	\$	60,000,000 65962
		Registration Plan				
		Distribution				
051	762-901	Auto Registration	\$	475,000,000	\$	486,875,000 65963
		Distribution				
054	110-900	Local Government	\$	75,000,000	\$	75,000,000 65964
		Property Tax				
		Replacement				
060	110-900	Gasoline Excise Tax	\$	113,344,700	\$	115,611,600 65965
		Fund				
064	110-900	Local Government	\$	98,500,000	\$	98,500,000 65966
		Revenue Assistance				
065	110-900	Library/Local	\$	475,000,000	\$	475,000,000 65967
		Government Support				
		Fund				
066	800-900	Undivided Liquor	\$	13,500,000	\$	13,500,000 65968
		Permit Fund				
068	110-900	State/Local Government	\$	227,607,000	\$	232,159,100 65969
		Highway Distribution				
		Fund				
069	110-900	Local Government Fund	\$	705,000,000	\$	705,000,000 65970
082	110-900	Horse Racing Tax	\$	130,000	\$	130,000 65971
083	700-900	Ohio Fairs Fund	\$	3,150,000	\$	3,150,000 65972
		TOTAL RDF Revenue Distribution				65973
		Fund Group	\$	2,248,081,700	\$	2,266,775,700 65974
		TOTAL ALL BUDGET FUND GROUPS	\$	4,014,330,800	\$	4,088,943,600 65975

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are to be used for the 65977
purpose of administering and distributing the designated revenue 65978
distributions fund according to the Revised Code. If it is 65979
determined that additional appropriations are necessary, such 65980

amounts are appropriated.				65981
Section 93. SAN BOARD OF SANITARIAN REGISTRATION				65982
General Services Fund Group				65983
4K9 893-609 Operating Expenses	\$	124,892	\$ 125,612	65984
TOTAL GSF General Services				65985
Fund Group	\$	124,892	\$ 125,612	65986
TOTAL ALL BUDGET FUND GROUPS				65987
Section 94. OSB OHIO STATE SCHOOL FOR THE BLIND				65989
General Revenue Fund				65990
GRF 226-100 Personal Services	\$	6,287,483	\$ 6,456,616	65991
GRF 226-200 Maintenance	\$	685,256	\$ 685,256	65992
GRF 226-300 Equipment	\$	121,355	\$ 121,355	65993
TOTAL GRF General Revenue Fund				65994
General Services Fund Group				65995
4H8 226-602 Education Reform	\$	61,476	\$ 61,476	65996
Grants				
TOTAL GSF General Services				65997
Fund Group	\$	61,476	\$ 61,476	65998
State Special Revenue Fund Group				65999
4M5 226-601 Work Study &	\$	42,919	\$ 42,919	66000
Technology Investments				
TOTAL SSR State Special Revenue				66001
Fund Group	\$	42,919	\$ 42,919	66002
Federal Special Revenue Fund Group				66003
3P5 226-643 Medicaid Professional	\$	143,600	\$ 143,600	66004
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,390,000	\$ 1,384,000	66005
TOTAL FED Federal Special				66006
Revenue Fund Group	\$	1,533,600	\$ 1,527,600	66007
TOTAL ALL BUDGET FUND GROUPS				66008

Section 95. OSD OHIO STATE SCHOOL FOR THE DEAF				66010
General Revenue Fund				66011
GRF 221-100 Personal Services	\$	8,134,597	\$ 8,464,711	66012
GRF 221-200 Maintenance	\$	1,018,160	\$ 1,028,342	66013
GRF 221-300 Equipment	\$	200,841	\$ 200,841	66014
TOTAL GRF General Revenue Fund	\$	9,353,598	\$ 9,693,894	66015
General Services Fund Group				66016
4M1 221-602 Education Reform	\$	70,701	\$ 70,701	66017
Grants				
TOTAL GSF General Services				66018
Fund Group	\$	70,701	\$ 70,701	66019
State Special Revenue Fund Group				66020
4M0 221-601 Educational Program	\$	33,188	\$ 33,188	66021
Expenses				66022
5H6 221-609 Even Start Fees &	\$	98,500	\$ 98,500	66023
Gifts				
TOTAL SSR State Special Revenue				66024
Fund Group	\$	131,688	\$ 131,688	66025
Federal Special Revenue Fund Group				66026
3R0 221-684 Medicaid Professional	\$	111,377	\$ 111,377	66027
Services Reimbursement				66028
311 221-625 Coordinating Unit	\$	949,899	\$ 974,649	66029
3Y1 221-686 Early Childhood Grant	\$	248,235	\$ 262,275	66030
TOTAL FED Federal Special				66031
Revenue Fund Group	\$	1,309,511	\$ 1,348,301	66032
TOTAL ALL BUDGET FUND GROUPS	\$	10,865,498	\$ 11,244,584	66033
Section 96. SFC SCHOOL FACILITIES COMMISSION				66035
General Revenue Fund				66036
GRF 230-428 Lease Rental Payments	\$	31,776,500	\$ 31,704,700	66037
GRF 230-908 Common Schools General	\$	106,322,300	\$ 145,989,300	66038

Obligation Debt			
Service			
TOTAL GRF General Revenue Fund	\$	138,098,800	\$ 177,694,000 66039
Federal Special Revenue Fund Group			66040
3X9 230-601 Federal School	\$	28,214,058	\$ 28,214,058 66041
Facilities Grant			
TOTAL FED Federal Special Revenue	\$	28,214,058	\$ 28,214,058 66042
Fund Group			
State Special Revenue Fund Group			66043
5E3 230-644 Operating Expenses	\$	7,009,766	\$ 7,009,766 66044
TOTAL SSR State Special Revenue			66045
Fund Group	\$	7,009,766	\$ 7,009,766 66046
TOTAL ALL BUDGET FUND GROUPS	\$	173,322,624	\$ 212,917,824 66047

Section 96.01. LEASE RENTAL PAYMENTS 66049

The foregoing appropriation item 230-428, Lease Rental 66050
 Payments, shall be used to meet all payments at the times they are 66051
 required to be made during the period from July 1, 2003, to June 66052
 30, 2005, by the School Facilities Commission pursuant to leases 66053
 and agreements made under section 3318.26 of the Revised Code, but 66054
 limited to the aggregate amount of \$63,481,200. Nothing in this 66055
 act shall be deemed to contravene the obligation of the state to 66056
 pay, without necessity for further appropriation, from the sources 66057
 pledged thereto, the bond service charges on obligations issued 66058
 pursuant to Chapter 3318. of the Revised Code. 66059

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 66060

The foregoing appropriation item 230-908, Common Schools 66061
 General Obligation Debt Service, shall be used to pay all debt 66062
 service and related financing costs at the times they are required 66063
 to be made pursuant to sections 151.01 and 151.03 of the Revised 66064
 Code during the period from July 1, 2003, to June 30, 2005. The 66065

Office of the Sinking Fund or the Director of Budget and 66066
Management shall effectuate the required payments by an intrastate 66067
transfer voucher. 66068

OPERATING EXPENSES 66069

The foregoing appropriation item 230-644, Operating Expenses, 66070
shall be used by the Ohio School Facilities Commission to carry 66071
out its responsibilities pursuant to this section and Chapter 66072
3318. of the Revised Code. 66073

Within ten days after the effective date of this section, or 66074
as soon as possible thereafter, the Executive Director of the Ohio 66075
School Facilities Commission shall certify to the Director of 66076
Budget and Management the amount of cash from interest earnings to 66077
be transferred from the School Building Assistance Fund (Fund 032) 66078
or the Public School Building Fund (Fund 021) to the Ohio School 66079
Facilities Commission Fund (Fund 5E3). 66080

By July 10, 2004, the Executive Director of the Ohio School 66081
Facilities Commission shall certify to the Director of Budget and 66082
Management the amount of cash from interest earnings to be 66083
transferred from the School Building Assistance Fund (Fund 032) or 66084
the Public School Building Fund (Fund 021) to the Ohio School 66085
Facilities Commission Fund (Fund 5E3). The amount transferred may 66086
not exceed investment earnings credited to the School Building 66087
Assistance Fund (Fund 032) less any amount required to be paid for 66088
federal arbitrage rebate purposes. 66089

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 66090

At the request of the Executive Director of the Ohio School 66091
Facilities Commission, the Director of Budget and Management may 66092
cancel encumbrances for school district projects from a previous 66093
biennium if the district has not raised its local share of project 66094
costs within one year of receiving Controlling Board approval in 66095
accordance with section 3318.05 of the Revised Code. The Executive 66096

Director of the Ohio School Facilities Commission shall certify 66097
the amounts of these canceled encumbrances to the Director of 66098
Budget and Management on a quarterly basis. The amounts of the 66099
canceled encumbrances are appropriated. 66100

Section 96.02. COMMUNITY SCHOOL CLASSROOM FACILITIES LOAN 66101
GUARANTEE 66102

The unencumbered and unallotted balances as of June 30, 2003, 66103
in appropriation item 230-602, Community School Loan Guarantee, 66104
are hereby reappropriated in fiscal year 2004 to support loan 66105
guarantees to community schools under section 3318.50 of the 66106
Revised Code. The unencumbered an unallotted balances of the 66107
appropriation at the end of fiscal year 2004 are hereby 66108
reappropriated in fiscal year 2005 to support loan guarantees to 66109
community schools under section 3318.50 of the Revised Code. 66110

Section 96.03. (A) The Ohio School Facilities Commission may 66111
commit up to thirty-five million dollars to the Canton City School 66112
District for construction of a facility described in this section, 66113
in lieu of a high school that would otherwise be authorized under 66114
Chapter 3318. of the Revised Code. The commission shall not commit 66115
funds under this section unless all of the following conditions 66116
are met: 66117

(1) The district has entered into a cooperative agreement 66118
with a state-assisted technical college. 66119

(2) The district has received an irrevocable commitment of 66120
additional funding from nonpublic sources. 66121

(3) The facility is intended to serve both secondary and 66122
postsecondary instructional purposes. 66123

(B) The commission shall enter into an agreement with the 66124
district for the construction of the facility authorized under 66125
this section that is separate from and in addition to the 66126

agreement required for the district's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the commission.

(3) The commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

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.

Section 97. NET OHIO SCHOOLNET COMMISSION

General Revenue Fund

GRF 228-404 Operating Expenses \$ 5,961,208 \$ 5,961,208

GRF 228-406 Technical and \$ 7,691,831 \$ 7,691,831

Instructional

Professional

Development			
GRF 228-539	Education Technology	\$ 6,989,315	\$ 6,989,315 66155
Total GRF	General Revenue Fund	\$ 20,642,354	\$ 20,642,354 66156
General Services Fund Group			66157
5D4 228-640	Conference/Special	\$ 1,350,000	\$ 1,350,000 66158
Purpose Expenses			
TOTAL GSF General Services			66159
Fund Group		\$ 1,350,000	\$ 1,350,000 66160
State Special Revenue Fund Group			66161
4W9 228-630	Ohio SchoolNet	\$ 400,000	\$ 400,000 66162
Telecommunity Fund			
4X1 228-634	Distance Learning	\$ 1,750,000	\$ 1,750,000 66163
5T3 228-605	Gates Foundation	\$ 1,194,908	\$ 1,194,908 66164
Grants			
TOTAL SSR State Special Revenue			66165
Fund Group		\$ 3,344,908	\$ 3,344,908 66166
Federal Special Revenue Fund Group			66167
3X8 228-604	Individuals With	\$ 1,500,000	\$ 1,500,000 66168
Disabilities Education Act			
TOTAL FED Federal Special Revenue			66169
Fund Group		\$ 1,500,000	\$ 1,500,000 66170
TOTAL ALL BUDGET FUND GROUPS			\$ 26,837,262 \$ 26,837,262 66171

Section 97.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL 66173
DEVELOPMENT 66174

The foregoing appropriation item 228-406, Technical and 66175
Instructional Professional Development, shall be used by the Ohio 66176
SchoolNet Commission to make grants or provide services to 66177
qualifying schools, including the State School for the Blind and 66178
the Ohio School for the Deaf, for the provision of hardware, 66179
software, telecommunications services, and staff development to 66180

support educational uses of technology in the classroom. 66181

The Ohio SchoolNet Commission shall consider the professional 66182
development needs associated with the OhioReads Program when 66183
making funding allocations and program decisions. 66184

Of the foregoing appropriation \$1,260,000 in each fiscal year 66185
shall be used by the Ohio Educational Telecommunications Network 66186
Commission, with the advice of the Ohio SchoolNet Commission, to 66187
make grants for research, development and production of 66188
interactive instructional programming series and teleconferences 66189
to support the SchoolNet Commission. Up to \$55,000 of this amount 66190
shall be used in each fiscal year to provide for the 66191
administration of these activities by the Ohio Educational 66192
Telecommunications Network Commission. The programming shall be 66193
targeted to the needs of the poorest two hundred school districts 66194
as determined by the district's adjusted valuation per pupil as 66195
defined in section 3317.0213 of the Revised Code. 66196

Of the foregoing appropriation item 228-406, Technical and 66197
Instructional Professional Development, \$818,322 in each fiscal 66198
year shall be used by the INFOhio Network, with the advice of the 66199
Ohio SchoolNet Commission, to support the provision of electronic 66200
resources to all public schools with preference given to 66201
elementary schools. Consideration shall be given by the Commission 66202
to coordinating the allocation of these moneys with the efforts of 66203
OhioLINK and the Ohio Public Information Network. 66204

Of the foregoing appropriation item 228-406, Technical and 66205
Instructional Professional Development, \$300,000 in each fiscal 66206
year shall be used by the JASON project, with the advice of the 66207
Ohio SchoolNet Commission, to provide statewide access and a 75 66208
per cent subsidy for statewide licensing of JASON content for 66209
90,000 middle school students statewide, and professional 66210
development for teachers participating in the program. 66211

The remaining appropriation allocated in appropriation item 66212
228-406, Technical and Instructional Professional Development, 66213
shall be used by the Ohio SchoolNet Commission for professional 66214
development for teachers and administrators for the use of 66215
educational technology. The commission may make grants to provide 66216
technical assistance and professional development on the use of 66217
educational technology to school districts. 66218

Eligible recipients of grants include regional training 66219
centers, county offices of education, data collection sites, 66220
instructional technology centers, institutions of higher 66221
education, public television stations, special education resource 66222
centers, area media centers, or other nonprofit educational 66223
organizations. Services provided through these grants may include 66224
use of private entities subcontracting through the grant 66225
recipient. 66226

Grants shall be made to entities on a contractual basis with 66227
the Ohio SchoolNet Commission. Contracts shall include provisions 66228
that demonstrate how services will benefit technology use in the 66229
schools, and in particular will support Ohio SchoolNet efforts to 66230
support technology in the schools. Contracts shall specify the 66231
scope of assistance being offered and the potential number of 66232
professionals who will be served. Contracting entities may be 66233
awarded more than one grant at a time. 66234

Grants shall be awarded in a manner consistent with the goals 66235
of Ohio SchoolNet. Special emphasis in the award of grants shall 66236
be placed on collaborative efforts among service providers. 66237

Application for grants from this appropriation in 66238
appropriation item 228-406, Technical and Instructional 66239
Professional Development, shall be consistent with a school 66240
district's technology plan that shall meet the minimum 66241
specifications for school district technology plans as prescribed 66242

by the Ohio SchoolNet Commission. Funds allocated through these 66243
grants may be combined with funds received through other state or 66244
federal grants for technology so long as the school district's 66245
technology plan specifies the use of these funds. 66246

EDUCATION TECHNOLOGY 66247

The foregoing appropriation item 228-539, Education 66248
Technology, shall be used to provide funding to suppliers of 66249
information services to school districts for the provision of 66250
hardware, software, and staff development in support of 66251
educational uses of technology in the classroom as prescribed by 66252
the State Plan for Technology pursuant to section 3301.07 of the 66253
Revised Code, and to support assistive technology for children and 66254
youth with disabilities. 66255

Of the foregoing appropriation item 228-539, Education 66256
Technology, up to \$1,946,000 in each fiscal year shall be used by 66257
the Ohio SchoolNet Commission to link all public K-12 classrooms 66258
to each other and the Internet, and to provide access to voice, 66259
video, and data educational resources for students and teachers 66260
through the OneNet Ohio Program. 66261

Up to \$4,403,778 in each fiscal year shall be used by the 66262
Ohio SchoolNet Commission to contract with instructional 66263
television, and \$639,537 in each fiscal year shall be used by the 66264
commission to contract with education media centers to provide 66265
Ohio schools with instructional resources and services. 66266

Resources may include, but not be limited to, the following: 66267
pre-recorded video materials (including videotape, laser discs, 66268
and CD-ROM discs); computer software for student use or student 66269
access to electronic communication, databases, spreadsheet, and 66270
word processing capability; live student courses or courses 66271
delivered electronically; automated media systems; and 66272
instructional and professional development materials for teachers. 66273

The commission shall cooperate with education technology agencies 66274
in the acquisition, development, and delivery of such educational 66275
resources to ensure high-quality and educational soundness at the 66276
lowest possible cost. Delivery of such resources may utilize a 66277
variety of technologies, with preference given to a high-speed 66278
integrated information network that can transport video, voice, 66279
data, and graphics simultaneously. 66280

Services shall include presentations and technical assistance 66281
that will help students and teachers integrate educational 66282
materials that support curriculum objectives, match specific 66283
learning styles, and are appropriate for individual interests and 66284
ability levels. 66285

Such instructional resources and services shall be made 66286
available for purchase by chartered nonpublic schools or by public 66287
school districts for the benefit of pupils attending chartered 66288
nonpublic schools. 66289

TELECOMMUNITY 66290

The foregoing appropriation item 228-630, Ohio SchoolNet 66291
Telecommunity Fund, shall be distributed by the Ohio SchoolNet 66292
Commission on a grant basis to eligible school districts to 66293
establish "distance learning" through interactive video 66294
technologies in the school district. Per agreements with eight 66295
Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of 66296
Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone 66297
Company, Orwell Telephone Company, Sprint North Central Telephone, 66298
VERIZON, and Western Reserve Telephone Company, school districts 66299
are eligible for funds if they are within one of the listed 66300
telephone company service areas. Funds to administer the program 66301
shall be expended by the commission up to the amount specified in 66302
agreements with the listed telephone companies. 66303

Within 30 days after the effective date of this section, the 66304

Director of Budget and Management shall transfer to Fund 4W9 in 66305
the State Special Revenue Fund Group any investment earnings from 66306
moneys paid to the Ohio SchoolNet Commission by any telephone 66307
company as part of any settlement agreement between the listed 66308
companies and the Public Utilities Commission in fiscal years 1996 66309
and beyond. 66310

DISTANCE LEARNING 66311

Appropriation item 228-634, Distance Learning, shall be 66312
distributed by the Ohio SchoolNet Commission on a grant basis to 66313
eligible school districts to establish "distance learning" in the 66314
school district. Per the agreement with Ameritech, school 66315
districts are eligible for funds if they are within an Ameritech 66316
service area. Funds to administer the program shall be expended by 66317
the commission up to the amount specified in the agreement with 66318
Ameritech. 66319

Within thirty days after the effective date of this section, 66320
the Director of Budget and Management shall transfer to fund 4X1 66321
in the State Special Revenue Fund Group any investment earnings 66322
from moneys paid to the office or to the SchoolNet Commission by 66323
any telephone company as part of a settlement agreement between 66324
the company and the Public Utilities Commission in fiscal year 66325
1995. 66326

GATES FOUNDATION GRANTS 66327

The foregoing appropriation item 228-605, Gates Foundation 66328
Grants, shall be used by the Ohio SchoolNet Commission to provide 66329
professional development to school district principals, 66330
superintendents, and other administrative staff for the use of 66331
education technology. The appropriation is made possible through a 66332
grant from the Bill and Melinda Gates foundation. 66333

Section 98. SOS SECRETARY OF STATE 66334

General Revenue Fund				66335
GRF 050-321 Operating Expenses	\$	2,750,000	\$ 2,750,000	66336
GRF 050-403 Election Statistics	\$	110,570	\$ 110,570	66337
GRF 050-407 Pollworkers Training	\$	295,742	\$ 295,742	66338
GRF 050-409 Litigation	\$	4,949	\$ 4,949	66339
Expenditures				
TOTAL GRF General Revenue Fund	\$	3,161,261	\$ 3,161,261	66340
General Services Fund Group				66341
4S8 050-610 Board of Voting	\$	7,200	\$ 7,200	66342
Machine Examiners				
412 050-609 Notary Commission	\$	178,124	\$ 185,249	66343
413 050-601 Information Systems	\$	163,418	\$ 169,955	66344
414 050-602 Citizen Education Fund	\$	72,800	\$ 75,712	66345
TOTAL General Services Fund Group	\$	421,542	\$ 438,116	66346
Federal Special Revenue Fund Group				66347
3X4 050-612 Ohio Cntr/Law Related	\$	41,000	\$ 41,000	66348
Educ Grant				
TOTAL FED Federal Special Revenue				66349
Fund Group	\$	41,000	\$ 41,000	66350
State Special Revenue Fund Group				66351
5N9 050-607 Technology	\$	124,582	\$ 129,565	66352
Improvements				
599 050-603 Business Services	\$	13,889,462	\$ 14,241,966	66353
Operating Expenses				
TOTAL SSR State Special Revenue				66354
Fund Group	\$	14,014,044	\$ 14,371,531	66355
Holding Account Redistribution Fund Group				66356
R01 050-605 Uniform Commercial	\$	65,000	\$ 65,000	66357
Code Refunds				
R02 050-606 Corporate/Business	\$	100,000	\$ 100,000	66358
Filing Refunds				

TOTAL 090 Holding Account				66359
Redistribution Fund Group	\$	165,000	\$ 165,000	66360
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$ 18,176,908	66361

BOARD OF VOTING MACHINE EXAMINERS 66362

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP 66372

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are appropriated.

Section 99. SEN THE OHIO SENATE 66378

General Revenue Fund				66379
GRF 020-321 Operating Expenses	\$	10,887,655	\$ 11,432,037	66380
TOTAL GRF General Revenue Fund	\$	10,887,655	\$ 11,432,037	66381
General Services Fund Group				66382
102 020-602 Senate Reimbursement	\$	422,881	\$ 444,025	66383
409 020-601 Miscellaneous Sales	\$	32,529	\$ 34,155	66384
TOTAL GSF General Services Fund Group	\$	455,410	\$ 478,180	66386
TOTAL ALL BUDGET FUND GROUPS	\$	11,343,065	\$ 11,910,217	66387

Section 100.				CSF COMMISSIONERS OF THE SINKING FUND	66389
Debt Service Fund Group					66390
071	155-901	Highway Obligations	\$ 35,536,300	\$ 10,450,000	66391
Bond Retirement Fund					
072	155-902	Highway Capital	\$ 153,559,600	\$ 173,238,200	66392
Improvements Bond					
Retirement Fund					
073	155-903	Natural Resources Bond	\$ 23,808,300	\$ 26,914,300	66393
Retirement					
074	155-904	Conservation Projects	\$ 9,743,500	\$ 11,235,700	66394
Bond Service Fund					
076	155-906	Coal Research and	\$ 7,231,200	\$ 9,185,100	66395
Development Bond					
Retirement Fund					
077	155-907	State Capital	\$ 156,974,400	\$ 152,069,700	66396
Improvements Bond					
Retirement Fund					
078	155-908	Common Schools Bond	\$ 106,322,300	\$ 145,989,300	66397
Retirement Fund					
079	155-909	Higher Education Bond	\$ 97,668,000	\$ 130,967,600	66398
Retirement Fund					
TOTAL DSF Debt Service Fund Group			\$ 590,843,600	\$ 660,049,900	66399
TOTAL ALL BUDGET FUND GROUPS			\$ 590,843,600	\$ 660,049,900	66400
ADDITIONAL APPROPRIATIONS					66401
Appropriation items in this section are for the purpose of					66402
paying debt service and financing costs on bonds or notes of the					66403
state issued pursuant to the Ohio Constitution and acts of the					66404
General Assembly. If it is determined that additional					66405
appropriations are necessary, such amounts are appropriated.					66406
Section 101.				SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &	66407

AUDIOLOGY				66408
General Services Fund Group				66409
4K9 886-609 Operating Expenses	\$	390,966	\$ 403,554	66410
TOTAL GSF General Services				66411
Fund Group	\$	390,966	\$ 403,554	66412
TOTAL ALL BUDGET FUND GROUPS	\$	390,966	\$ 403,554	66413
Section 102. BTA BOARD OF TAX APPEALS				66415
General Revenue Fund				66416
GRF 116-321 Operating Expenses	\$	2,171,760	\$ 2,171,760	66417
TOTAL GRF General Revenue Fund	\$	2,171,760	\$ 2,171,760	66418
TOTAL ALL BUDGET FUND GROUPS	\$	2,171,760	\$ 2,171,760	66419
Section 103. TAX DEPARTMENT OF TAXATION				66421
General Revenue Fund				66422
GRF 110-321 Operating Expenses	\$	92,501,007	\$ 94,267,788	66423
GRF 110-412 Child Support	\$	74,215	\$ 74,215	66424
Administration				
GRF 110-901 Property Tax	\$	434,650,000	\$ 462,640,000	66425
Allocation - Taxation				
GRF 110-906 Tangible Tax Exemption	\$	29,190,000	\$ 30,490,000	66426
- Taxation				
TOTAL GRF General Revenue Fund	\$	556,415,222	\$ 587,472,003	66427
Agency Fund Group				66428
095 110-901 Municipal Income Tax	\$	12,000,000	\$ 12,000,000	66429
425 110-635 Tax Refunds	\$	1,296,756,200	\$ 1,337,119,600	66430
TOTAL AGY Agency Fund Group	\$	1,308,756,200	\$ 1,349,119,600	66431
General Services Fund Group				66432
433 110-602 Tape File Account	\$	96,165	\$ 96,165	66433
TOTAL GSF General Services				66434
Fund Group	\$	96,165	\$ 96,165	66435

State Special Revenue Fund Group				66436
4C6 110-616 International	\$	706,855	\$ 706,855	66437
Registration Plan				
4R6 110-610 Tire Tax	\$	65,000	\$ 65,000	66438
Administration				
435 110-607 Local Tax	\$	13,600,000	\$ 13,700,000	66439
Administration				
436 110-608 Motor Vehicle Audit	\$	1,350,000	\$ 1,350,000	66440
437 110-606 Litter Tax and Natural	\$	625,232	\$ 625,232	66441
Resource Tax				
Administration				
438 110-609 School District Income	\$	2,599,999	\$ 2,599,999	66442
Tax				
5N5 110-605 Municipal Income Tax	\$	650,000	\$ 650,000	66443
Administration				
5N6 110-618 Kilowatt Hour Tax	\$	85,000	\$ 85,000	66444
Administration				
5V7 110-622 Motor Fuel Tax	\$	3,734,036	\$ 3,833,091	66445
Administration				
5V8 110-623 Property Tax	\$	11,569,719	\$ 11,938,362	66446
Administration				
5W4 110-625 Centralized Tax Filing	\$	3,000,000	\$ 3,000,000	66447
and Payment				
639 110-614 Cigarette Tax	\$	168,925	\$ 168,925	66448
Enforcement				
642 110-613 Ohio Political Party	\$	600,000	\$ 600,000	66449
Distributions				
688 110-615 Local Excise Tax	\$	300,000	\$ 300,000	66450
Administration				
TOTAL SSR State Special Revenue				66451
Fund Group	\$	39,054,766	\$ 39,622,464	66452
Federal Special Revenue Fund Group				66453

3J6 110-601 Motor Fuel Compliance	\$	33,300	\$	25,000	66454
TOTAL FED Federal Special Revenue					66455
Fund Group	\$	33,300	\$	25,000	66456
Holding Account Redistribution Fund Group					66457
R10 110-611 Tax Distributions	\$	50,000	\$	50,000	66458
R11 110-612 Miscellaneous Income	\$	50,000	\$	50,000	66459
Tax Receipts					
TOTAL 090 Holding Account					66460
Redistribution Fund Group	\$	100,000	\$	100,000	66461
TOTAL ALL BUDGET FUND GROUPS	\$	1,904,455,653	\$	1,976,435,232	66462
LITTER CONTROL TAX ADMINISTRATION FUND					
Notwithstanding section 5733.12 of the Revised Code, during					66464
the period from July 1, 2003, to June 30, 2004, the amount of					66465
\$625,232, and during the period from July 1, 2004, to June 30,					66466
2005, the amount of \$625,232, received by the Tax Commissioner					66467
under Chapter 5733. of the Revised Code, shall be credited to the					66468
Litter Control Tax Administration Fund (Fund 437).					66469
CENTRALIZED TAX FILING AND PAYMENT FUND					
The Director of Budget and Management pursuant to a plan					66471
submitted by the Tax Commissioner, or as otherwise determined by					66472
the Director of Budget and Management, shall set a schedule to					66473
transfer cash from the General Revenue Fund to the credit of the					66474
Centralized Tax Filing and Payment Fund. Such transfers of cash					66475
shall not exceed \$3,000,000 in any fiscal year.					66476
INTERNATIONAL REGISTRATION PLAN AUDIT					
The foregoing appropriation item 110-616, International					66478
Registration Plan, shall be used pursuant to section 5703.12 of					66479
the Revised Code for audits of persons with vehicles registered					66480
under the International Registration Plan.					66481
HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX					
					66482

EXEMPTION 66483

The foregoing appropriation item 110-901, Property Tax Allocation - Taxation, is appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts of the state, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor. 66484
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The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount certified by the county treasurer pursuant to section 319.311 of the Revised Code for all local taxing districts located in the county except for school districts, notwithstanding the provision in section 319.311 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts. 66497
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Upon receipt of these amounts, each local taxing district 66514

shall distribute the amount among the proper funds as if it had 66515
been paid as real or tangible personal property taxes. Payments 66516
for the costs of administration shall continue to be paid to the 66517
county treasurer and county auditor as provided for in sections 66518
319.54, 321.26, and 323.156 of the Revised Code. 66519

Any sums, in addition to the amounts specifically 66520
appropriated in appropriation items 110-901, Property Tax 66521
Allocation - Taxation, for the Homestead Exemption, the 66522
Manufactured Home Property Tax Rollback, and the Property Tax 66523
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 66524
for the \$10,000 tangible personal property tax exemption payments, 66525
which are determined to be necessary for these purposes, are 66526
hereby appropriated. 66527

MUNICIPAL INCOME TAX 66528

The foregoing appropriation item 110-901, Municipal Income 66529
Tax, shall be used to make payments to municipal corporations as 66530
provided in section 5745.05 of the Revised Code. If it is 66531
determined that additional appropriations are necessary to make 66532
such payments, such amounts are hereby appropriated. 66533

TAX REFUNDS 66534

The foregoing appropriation item 110-635, Tax Refunds, shall 66535
be used to pay refunds as provided in section 5703.052 of the 66536
Revised Code. If it is determined that additional appropriations 66537
are necessary, such amounts are appropriated. 66538

Section 104. DOT DEPARTMENT OF TRANSPORTATION 66539

Transportation Modes 66540

General Revenue Fund 66541

GRF 775-451 Public Transportation \$ 15,525,595 \$ 15,525,595 66542
- State

GRF 776-465 Ohio Rail Development \$ 3,116,889 \$ 2,936,056 66543

	Commission			
GRF 777-471	Airport Improvements -	\$ 1,338,495	\$ 1,338,495	66544
	State			
GRF 777-473	Rickenbacker Lease	\$ 591,600	\$ 591,500	66545
	Payments - State			
TOTAL GRF	General Revenue Fund	\$ 20,572,579	\$ 20,391,646	66546
	Federal Special Revenue Fund Group			66547
3B9 776-662	Rail Transportation -	\$ 50,000	\$ 50,000	66548
	Federal			
TOTAL FSR	Federal Special Revenue			66549
Fund Group		\$ 50,000	\$ 50,000	66550
	State Special Revenue Fund Group			66551
4N4 776-663	Panhandle Lease	\$ 770,000	\$ 770,000	66552
	Reserve Payments			
4N4 776-664	Rail Transportation -	\$ 1,919,500	\$ 2,111,500	66553
	Other			
5W7 771-413	Public Transportation	\$ 3,100,000	\$ 3,100,000	66554
	Grant Programs			
5W8 773-432	Roadside Rest Area	\$ 250,000	\$ 250,000	66555
	Improvement			
5W9 777-476	County Airport	\$ 570,000	\$ 570,000	66556
	Maintenance Assistance			
TOTAL SSR	State Special Revenue			66557
Fund Group		\$ 6,609,500	\$ 6,801,500	66558
TOTAL ALL BUDGET FUND GROUPS		\$ 27,232,079	\$ 27,243,146	66559
	ELDERLY AND DISABLED FARE ASSISTANCE			66560
	Of the foregoing appropriation item 775-451, Public			66561
	Transportation - State, up to \$4,012,780 in fiscal year 2004 and			66562
	\$5,015,975 in fiscal year 2005 may be used to make grants to			66563
	county transit boards, regional transit authorities, regional			66564
	transit commissions, counties, municipal corporations, and private			66565
	nonprofit organizations that operate or will operate public			66566

transportation systems, for the purpose of reducing the transit 66567
fares of elderly or disabled persons. Pursuant to division (B) of 66568
section 5501.07 of the Revised Code, the Director of 66569
Transportation shall establish criteria for the distribution of 66570
these grants. 66571

AVIATION LEASE PAYMENTS 66572

The foregoing appropriation item 777-473, Rickenbacker Lease 66573
Payments - State, shall be used to meet scheduled payments for the 66574
Rickenbacker Port Authority. The Director of Transportation shall 66575
certify to the Director of Budget and Management any 66576
appropriations in appropriation item 777-473, Rickenbacker Lease 66577
Payments - State, that are not needed to make lease payments for 66578
the Rickenbacker Port Authority. Notwithstanding section 127.14 of 66579
the Revised Code, the amount certified may be transferred by the 66580
Director of Budget and Management to appropriation item 777-471, 66581
Airport Improvements - State. 66582

Section 105. TOS TREASURER OF STATE 66583

General Revenue Fund 66584

GRF 090-321 Operating Expenses \$ 9,122,622 \$ 9,122,622 66585

GRF 090-401 Office of the Sinking \$ 554,868 \$ 554,868 66586

Fund 66587

GRF 090-402 Continuing Education \$ 463,585 \$ 463,585 66588

GRF 090-524 Police and Fire \$ 35,000 \$ 30,000 66589

Disability Pension 66590

Fund

GRF 090-534 Police & Fire Ad Hoc \$ 225,000 \$ 230,000 66591

Cost

of Living 66592

GRF 090-544 Police and Fire State \$ 1,200,000 \$ 1,200,000 66593

Contribution 66594

GRF 090-554 Police and Fire \$ 1,320,000 \$ 1,260,000 66595

	Survivor				
	Benefits				66596
GRF 090-575	Police and Fire Death	\$	24,000,000	\$	25,000,000
	Benefits				66598
TOTAL GRF	General Revenue Fund	\$	36,921,075	\$	37,861,075
	Agency Fund Group				66600
425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000
TOTAL Agency	Fund Group	\$	31,000,000	\$	31,000,000
	General Services Fund Group				66603
4E9 090-603	Securities Lending	\$	2,400,000	\$	2,100,000
	Income				
577 090-605	Investment Pool	\$	600,000	\$	550,000
	Reimbursement				66606
605 090-609	Treasurer of State	\$	600,000	\$	700,000
	Administrative Fund				66608
TOTAL GSF	General Services				66609
Fund Group		\$	3,600,000	\$	3,350,000
	State Special Revenue Fund Group				66611
5C5 090-602	County Treasurer	\$	175,000	\$	135,000
	Education				
TOTAL SSR	State Special Revenue				66613
Fund Group		\$	175,000	\$	135,000
TOTAL ALL BUDGET	FUND GROUPS	\$	71,696,075	\$	72,346,075

Section 105.01. OFFICE OF THE SINKING FUND 66617

The foregoing appropriation item 090-401, Office of the 66618
Sinking Fund, shall be used for financing and other costs incurred 66619
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 66620
Public Facilities Commission or its secretary, or the Treasurer of 66621
State, with respect to State of Ohio general obligation bonds or 66622
notes, including, but not limited to, printing, advertising, 66623
delivery, rating fees and the procurement of ratings, professional 66624

publications, membership in professional organizations, and 66625
services referred to in division (D) of section 151.01 of the 66626
Revised Code. The General Revenue Fund shall be reimbursed for 66627
such costs by intrastate transfer voucher pursuant to a 66628
certification by the Office of the Sinking Fund of the actual 66629
amounts used. The amounts necessary to make such reimbursements 66630
are appropriated from the general obligation bond retirement funds 66631
created by the Constitution and laws to the extent such costs are 66632
incurred. 66633

POLICE AND FIRE DEATH BENEFIT FUND 66634

The foregoing appropriation item 090-575, Police and Fire 66635
Death Benefits, shall be disbursed annually by the Treasurer of 66636
State at the beginning of each fiscal year to the Board of 66637
Trustees of the Ohio Police and Fire Pension Fund. By the 66638
twentieth day of June of each year, the Board of Trustees of the 66639
Ohio Police and Fire Pension Fund shall certify to the Treasurer 66640
of State the amount disbursed in the current fiscal year to make 66641
the payments required by section 742.63 of the Revised Code and 66642
shall return to the Treasurer of State moneys received from this 66643
item but not disbursed. 66644

The foregoing appropriation item 090-635, Tax Refunds, shall 66645
be used to pay refunds as provided in section 5703.052 of the 66646
Revised Code. If it is determined by the Director of Budget and 66647
Management that additional amounts are necessary, such amounts are 66648
appropriated. 66649

Section 106. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE 66650
COMPENSATION BOARD 66651

State Special Revenue Fund Group 66652
691 810-632 PUSTRCB Staff \$ 1,075,158 \$ 1,075,158 66653
TOTAL SSR State Special Revenue 66654
Fund Group \$ 1,075,158 \$ 1,075,158 66655

TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,075,158	66656
Section 107. TTA OHIO TUITION TRUST AUTHORITY					66658
State Special Revenue Fund Group					66659
5P3 095-602 Variable Savings Plan	\$	1,639,747	\$	1,690,213	66660
645 095-601 Operating Expenses	\$	3,570,614	\$	3,689,101	66661
TOTAL SSR State Special Revenue					66662
Fund Group	\$	5,210,361	\$	5,379,314	66663
TOTAL ALL BUDGET FUND GROUPS	\$	5,210,361	\$	5,379,314	66664
Section 108. OVH OHIO VETERANS' HOME					66666
General Revenue Fund					66667
GRF 430-100 Personal Services	\$	20,664,311	\$	18,247,112	66668
GRF 430-200 Maintenance	\$	6,112,553	\$	6,546,928	66669
TOTAL GRF General Revenue Fund	\$	26,776,864	\$	24,794,040	66670
General Services Fund Group					66671
484 430-603 Rental and Service	\$	709,737	\$	709,737	66672
Revenue					
TOTAL GSF General Services Fund	\$	709,737	\$	709,737	66673
Group					
Federal Special Revenue Fund Group					66674
3L2 430-601 Federal Grants	\$	12,220,340	\$	14,696,578	66675
TOTAL FED Federal Special Revenue					66676
Fund Group	\$	12,220,340	\$	14,696,578	66677
State Special Revenue Fund Group					66678
4E2 430-602 Veterans Home	\$	6,719,938	\$	7,769,277	66679
Operating					
604 430-604 Veterans Home	\$	770,096	\$	770,096	66680
Improvement					
TOTAL SSR State Special Revenue					66681
Fund Group	\$	7,490,034	\$	8,539,373	66682
TOTAL ALL BUDGET FUND GROUPS	\$	47,196,975	\$	48,739,728	66683

Section 109. DVM STATE VETERINARY MEDICAL BOARD				66685
General Services Fund Group				66686
4K9 888-609 Operating Expenses	\$	444,208	\$ 453,043	66687
TOTAL GSF General Services				66688
Fund Group	\$	444,208	\$ 453,043	66689
TOTAL ALL BUDGET FUND GROUPS				66690
 Section 110a. OVB OHIO VISION BOARD				66692
General Services Fund Group				66693
4K9 057-601 Operating Expenses	\$	550,000	\$ 550,000	66694
TOTAL GSF General Services Fund				66695
Group				
TOTAL ALL BUDGET FUND GROUPS				66696
 Section 111. DYS DEPARTMENT OF YOUTH SERVICES				66698
General Revenue Fund				66699
GRF 470-401 RECLAIM Ohio	\$	162,955,770	\$ 162,955,770	66700
GRF 470-412 Lease Rental Payments	\$	21,110,100	\$ 21,110,000	66701
GRF 470-510 Youth Services	\$	18,558,587	\$ 18,558,587	66702
GRF 472-321 Parole Operations	\$	15,347,154	\$ 14,841,872	66703
GRF 477-321 Administrative	\$	14,427,323	\$ 14,166,008	66704
Operations				
TOTAL GRF General Revenue Fund				66705
General Services Fund Group				66706
175 470-613 Education	\$	8,817,598	\$ 8,817,598	66707
Reimbursement				
4A2 470-602 Child Support	\$	311,302	\$ 320,641	66708
4G6 470-605 General Operational	\$	10,000	\$ 10,000	66709
Funds				
479 470-609 Employee Food Service	\$	118,454	\$ 122,008	66710
523 470-621 Wellness Program	\$	197,778	\$ 197,778	66711

TOTAL GSF General Services				66712
Fund Group	\$	9,455,132	\$ 9,468,025	66713
Federal Special Revenue Fund Group				66714
3V5 470-604 Juvenile	\$	4,091,100	\$ 4,254,744	66715
Justice/Delinquency				
Prevention				
3W0 470-611 Federal Juvenile	\$	4,500,000	\$ 0	66716
Programs FFY 02				
3Z8 470-625 Federal Juvenile	\$	7,828,899	\$ 4,500,000	66717
Programs FFY 04				
3Z9 470-626 Federal Juvenile	\$	0	\$ 7,828,899	66718
Programs FFY 05				
321 470-601 Education	\$	1,491,587	\$ 1,555,147	66719
321 470-603 Juvenile Justice	\$	1,558,138	\$ 1,558,138	66720
Prevention				
321 470-606 Nutrition	\$	2,389,587	\$ 2,485,170	66721
321 470-610 Rehabilitation	\$	585,000	\$ 585,000	66722
Programs				
321 470-614 Title IV-E	\$	4,776,002	\$ 4,919,282	66723
Reimbursements				
321 470-617 Americorps Programs	\$	460,000	\$ 460,000	66724
TOTAL FED Federal Special Revenue				66725
Fund Group	\$	27,680,313	\$ 28,146,380	66726
State Special Revenue Fund Group				66727
147 470-612 Vocational Education	\$	2,523,653	\$ 2,630,612	66728
4W3 470-618 Help Me Grow	\$	11,587	\$ 11,587	66729
5J7 470-623 Residential Treatment	\$	500,000	\$ 500,000	66730
Services				
TOTAL SSR State Special Revenue				66731
Fund Group	\$	3,035,240	\$ 3,142,199	66732
TOTAL ALL BUDGET FUND GROUPS	\$	272,569,619	\$ 272,388,841	66733
ZERO-BASED BUDGETING				66734

The Director of Budget and Management shall prepare a full zero-based budget for the biennium beginning July 1, 2005, for the Department of Youth Services. The Director shall offer the Department substantial technical assistance throughout the process of preparing their zero-based budget. The Department shall prepare a full zero-based budget in such manner and according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments to the Ohio Building Authority for the period from July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for facilities made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,220,100. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursement for state surplus property.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the

Department of Youth Services. Operating expenses include, but are 66766
not limited to, teachers' salaries, maintenance costs, and 66767
educational equipment. This appropriation item shall not be used 66768
for capital expenses. 66769

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 66770
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 66771

Any business relating to the funds associated with the Office 66772
of Criminal Justice Services' appropriation item 196-602, Criminal 66773
Justice Federal Programs, commenced but not completed by the 66774
Office of Criminal Justice Services or its director shall be 66775
completed by the Department of Youth Services or its director in 66776
the same manner, and with the same effect, as if completed by the 66777
Office of Criminal Justice Services or its director. No 66778
validation, cure, right, privilege, remedy, obligation, or 66779
liability is lost or impaired by reason of the transfer and shall 66780
be administered by the Department of Youth Services. 66781

Any action or proceeding against the Office of Criminal 66782
Justice Services pending on the effective date of this section 66783
shall not be affected by the transfer of responsibility to the 66784
Department of Youth Services, and shall be prosecuted or defended 66785
in the name of the Department of Youth Services or its director. 66786
In all such actions and proceedings, the Department of Youth 66787
Services or its director upon application of the court shall be 66788
substituted as party. 66789

Section 112. EXPENDITURES AND APPROPRIATION INCREASES 66790
APPROVED BY THE CONTROLLING BOARD 66791

Any money that the Controlling Board approves for expenditure 66792
or any increase in appropriation authority that the Controlling 66793
Board approves pursuant to the provisions of sections 127.14, 66794
131.35, and 131.39 of the Revised Code or any other provision of 66795
law is appropriated for the period ending June 30, 2005. 66796

Section 113. PERSONAL SERVICE EXPENSES 66797

Unless otherwise prohibited by law, any appropriation from 66798
which personal service expenses are paid shall bear the employer's 66799
share of public employees' retirement, workers' compensation, 66800
disabled workers' relief, and all group insurance programs; the 66801
costs of centralized accounting, centralized payroll processing, 66802
and related personnel reports and services; the cost of the Office 66803
of Collective Bargaining; the cost of the Personnel Board of 66804
Review; the cost of the Employee Assistance Program; the cost of 66805
the affirmative action and equal employment opportunity programs 66806
administered by the Department of Administrative Services; the 66807
costs of interagency information management infrastructure; and 66808
the cost of administering the state employee merit system as 66809
required by section 124.07 of the Revised Code. These costs shall 66810
be determined in conformity with appropriate sections of law and 66811
paid in accordance with procedures specified by the Office of 66812
Budget and Management. Expenditures from appropriation item 66813
070-601, Public Audit Expense - Local Government, in Fund 422 may 66814
be exempted from the requirements of this section. 66815

Section 114. REISSUANCE OF VOIDED WARRANTS 66816

In order to provide funds for the reissuance of voided 66817
warrants pursuant to section 117.47 of the Revised Code, there is 66818
appropriated, out of moneys in the state treasury from the fund 66819
credited as provided in section 117.47 of the Revised Code, that 66820
amount sufficient to pay such warrants when approved by the Office 66821
of Budget and Management. 66822

Section 115. * CAPITAL PROJECT SETTLEMENTS 66823

This section specifies an additional and supplemental 66824
procedure to provide for payments of judgments and settlements if 66825

the Director of Budget and Management determines, pursuant to 66826
division (C)(4) of section 2743.19 of the Revised Code, that 66827
sufficient unencumbered moneys do not exist in the particular 66828
appropriation to pay the amount of a final judgment rendered 66829
against the state or a state agency, including the settlement of a 66830
claim approved by a court, in an action upon and arising out of a 66831
contractual obligation for the construction or improvement of a 66832
capital facility if the costs under the contract were payable in 66833
whole or in part from a state capital projects appropriation. In 66834
such a case, the director may either proceed pursuant to division 66835
(C)(4) of section 2743.19 of the Revised Code, or apply to the 66836
Controlling Board to increase an appropriation or create an 66837
appropriation out of any unencumbered moneys in the state treasury 66838
to the credit of the capital projects fund from which the initial 66839
state appropriation was made. The Controlling Board may approve or 66840
disapprove the application as submitted or modified. The amount of 66841
an increase in appropriation or new appropriation specified in an 66842
application approved by the Controlling Board is hereby 66843
appropriated from the applicable capital projects fund and made 66844
available for the payment of the judgment or settlement. 66845

If the director does not make the application authorized by 66846
this section or the Controlling Board disapproves the application, 66847
and the director does not make application pursuant to division 66848
(C)(4) of section 2743.19 of the Revised Code, the director shall 66849
for the purpose of making that payment make a request to the 66850
General Assembly as provided for in division (C)(5) of that 66851
section. 66852

Section 116. INCOME TAX DISTRIBUTION TO COUNTIES 66853

There are hereby appropriated out of any moneys in the state 66854
treasury to the credit of the General Revenue Fund, which are not 66855
otherwise appropriated, funds sufficient to make any payment 66856

required by division (B)(2) of section 5747.03 of the Revised Code. 66857
66858

Section 117. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 66859
AGAINST THE STATE 66860

Any appropriation may be used for the purpose of satisfying 66861
judgments or settlements in connection with civil actions against 66862
the state in federal court not barred by sovereign immunity or the 66863
Eleventh Amendment to the Constitution of the United States, or 66864
for the purpose of satisfying judgments, settlements, or 66865
administrative awards ordered or approved by the Court of Claims 66866
in connection with civil actions against the state, pursuant to 66867
section 2743.15, 2743.19, or 2743.191 of the Revised Code. This 66868
authorization does not apply to appropriations to be applied to or 66869
used for payment of guarantees by or on behalf of the state, for 66870
or relating to lease payments or debt service on bonds, notes, or 66871
similar obligations and those from the Sports Facilities Building 66872
Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the 66873
Administrative Building Fund (Fund 026), the Adult Correctional 66874
Building Fund (Fund 027), the Juvenile Correctional Building Fund 66875
(Fund 028), the Transportation Building Fund (Fund 029), the Arts 66876
Facilities Building Fund (Fund 030), the Natural Resources 66877
Projects Fund (Fund 031), the School Building Program Assistance 66878
Fund (Fund 032), the Mental Health Facilities Improvement Fund 66879
(Fund 033), the Higher Education Improvement Fund (Fund 034), the 66880
Parks and Recreation Improvement Fund (Fund 035), the State 66881
Capital Improvements Fund (Fund 038), the Highway Obligation Fund 66882
(Fund 041), the Coal Research/Development Fund (Fund 046), and any 66883
other fund into which proceeds of obligations are deposited. 66884
Nothing contained in this section is intended to subject the state 66885
to suit in any forum in which it is not otherwise subject to suit, 66886
nor is it intended to waive or compromise any defense or right 66887
available to the state in any suit against it. 66888

Section 118. * UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS			66889
The maximum amounts that may be assessed against nuclear			66890
electric utilities in accordance with division (B)(2) of section			66891
4937.05 of the Revised Code are as follows:			66892
	FY 2004	FY 2005	66893
Department of Agriculture			66894
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	66895
Department of Health			66896
Fund 610 Radiation Emergency Response	\$923,315	\$923,315	66897
Environmental Protection Agency			66898
Fund 644 ER Radiological Safety	\$281,424	\$286,114	66899
Emergency Management Agency			66900
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000	66901
Section 119. UNCLAIMED FUNDS TRANSFER			66902
Notwithstanding division (A) of section 169.05 of the Revised			66903
Code, prior to June 30, 2004, upon the request of the Director of			66904
Budget and Management, the Director of Commerce shall transfer to			66905
the General Revenue Fund up to \$25,000,000 of the unclaimed funds			66906
that have been reported by the holder of unclaimed funds as			66907
provided by section 169.05 of the Revised Code, irrespective of			66908
the allocation of the unclaimed funds under that section.			66909
Section 120. GRF TRANSFER TO FUND 5N4, OAKS PROJECT			66910
IMPLEMENTATION			66911
On July 1, 2003, or as soon thereafter as possible, the			66912
Director of Budget and Management shall transfer \$1,250,000 in			66913
cash from the General Revenue Fund to Fund 5N4, OAKS Project			66914
Implementation. On July 1, 2004, or as soon thereafter as			66915
possible, the Director of Budget and Management shall transfer			66916
\$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS			66917

Project Implementation.	66918
Section 120a. FUND 4K9 TRANSFER TO GRF	66919
On July 31, 2003, or as soon thereafter as possible, the	66920
Director of Budget and Management shall transfer \$2,000,000 in	66921
cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to	66922
the General Revenue Fund.	66923
Section 121. CORPORATE AND UCC FILING FUND TRANSFER TO GRF	66924
Not later than the first day of June in each year of the	66925
biennium, the Director of Budget and Management shall transfer	66926
\$1,000,000 from the Corporate and Uniform Commercial Code Filing	66927
Fund to the General Revenue Fund.	66928
Section 122. GENERAL OBLIGATION DEBT SERVICE PAYMENTS	66929
Certain appropriations are in this act for the purpose of	66930
paying debt service and financing costs on general obligation	66931
bonds or notes of the state issued pursuant to the Ohio	66932
Constitution and acts of the General Assembly. If it is determined	66933
that additional appropriations are necessary for this purpose,	66934
such amounts are appropriated.	66935
Section 123. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE	66936 66937
Certain appropriations are in this act for the purpose of	66938
making lease payments pursuant to leases and agreements relating	66939
to bonds or notes issued by the Ohio Building Authority or the	66940
Treasurer of State or, previously, by the Ohio Public Facilities	66941
Commission, pursuant to the Ohio Constitution and acts of the	66942
General Assembly. If it is determined that additional	66943
appropriations are necessary for this purpose, such amounts are	66944
appropriated.	66945

Section 124. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO 66946
EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 66947

The Office of Budget and Management shall initiate and 66948
process disbursements from general obligation and lease rental 66949
payment appropriation items during the period from July 1, 2003, 66950
to June 30, 2005, relating to bonds or notes issued under Sections 66951
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 66952
and Chapters 151., 154., and 3318. of the Revised Code. 66953
Disbursements shall be made upon certification by the Treasurer of 66954
State of the dates and amounts due on those dates. 66955

Section 125. STATE AND LOCAL REBATE AUTHORIZATION 66956

There is hereby appropriated, from those funds designated by 66957
or pursuant to the applicable proceedings authorizing the issuance 66958
of state obligations, amounts computed at the time to represent 66959
the portion of investment income to be rebated or amounts in lieu 66960
of or in addition to any rebate amount to be paid to the federal 66961
government in order to maintain the exclusion from gross income 66962
for federal income tax purposes of interest on those state 66963
obligations pursuant to section 148(f) of the Internal Revenue 66964
Code. 66965

Rebate payments shall be approved and vouchered by the Office 66966
of Budget and Management. 66967

Section 126. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 66968
REESTABLISHMENT OF ENCUMBRANCES 66969

Any cash transferred by the Director of Budget and Management 66970
as provided by section 126.15 of the Revised Code is appropriated. 66971
Any amounts necessary to reestablish appropriations or 66972
encumbrances as provided in section 126.15 of the Revised Code are 66973
appropriated. 66974

Section 127. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 66975

Pursuant to the plan for compliance with the Federal Cash 66976
Management Improvement Act required by section 131.36 of the 66977
Revised Code, the Director of Budget and Management is authorized 66978
to cancel and reestablish all or parts of encumbrances in like 66979
amounts within the funds identified by the plan. The amounts 66980
necessary to reestablish all or parts of encumbrances are 66981
appropriated. 66982

Section 128. STATEWIDE INDIRECT COST RECOVERY 66983

Whenever the Director of Budget and Management determines 66984
that an appropriation made to a state agency from a fund of the 66985
state is insufficient to provide for the recovery of statewide 66986
indirect costs pursuant to section 126.12 of the Revised Code, the 66987
amount required for such purpose is appropriated from the 66988
available receipts of such fund. 66989

Section 129. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 66990
INDIRECT COST ALLOCATION PLAN 66991

The total transfers made from the General Revenue Fund by the 66992
Director of Budget and Management pursuant to this section shall 66993
not exceed the amounts transferred into the General Revenue Fund 66994
pursuant to division (B) of section 126.12 of the Revised Code. 66995

A director of an agency may certify to the Director of Budget 66996
and Management the amount of expenses not allowed to be included 66997
in the Statewide Indirect Cost Allocation plan pursuant to federal 66998
regulations, from any fund included in the Statewide Indirect Cost 66999
Allocation plan, prepared as required by section 126.12 of the 67000
Revised Code. 67001

Upon determining that no alternative source of funding is 67002
available to pay for such expenses, the Director of Budget and 67003

Management may transfer from the General Revenue Fund into the 67004
fund for which the certification is made, up to the amount of the 67005
certification. The director of the agency receiving such funds 67006
shall include, as part of the next budget submission prepared 67007
pursuant to section 126.02 of the Revised Code, a request for 67008
funding for such activities from an alternative source such that 67009
further federal disallowances would not be required. 67010

Section 130. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 67011
BALANCES OF OPERATING APPROPRIATIONS 67012

An unexpended balance of an operating appropriation or 67013
reappropriation that a state agency lawfully encumbered prior to 67014
the close of a fiscal year is reappropriated on the first day of 67015
July of the following fiscal year from the fund from which it was 67016
originally appropriated or reappropriated for the following period 67017
and shall remain available only for the purpose of discharging the 67018
encumbrance: 67019

(A) For an encumbrance for personal services, maintenance, 67020
equipment, or items for resale, other than an encumbrance for an 67021
item of special order manufacture not available on term contract 67022
or in the open market or for reclamation of land or oil and gas 67023
wells for a period of not more than five months from the end of 67024
the fiscal year; 67025

(B) For an encumbrance for an item of special order 67026
manufacture not available on term contract or in the open market, 67027
for a period of not more than five months from the end of the 67028
fiscal year or, with the written approval of the Director of 67029
Budget and Management, for a period of not more than twelve months 67030
from the end of the fiscal year; 67031

(C) For an encumbrance for reclamation of land or oil and gas 67032
wells, for a period ending when the encumbered appropriation is 67033
expended or for a period of two years, whichever is less; 67034

(D) For an encumbrance for any other expense, for such period 67035
as the director approves, provided such period does not exceed two 67036
years. 67037

Any operating appropriations for which unexpended balances 67038
are reappropriated beyond a five-month period from the end of the 67039
fiscal year, pursuant to division (B) of this section, shall be 67040
reported to the Controlling Board by the Director of Budget and 67041
Management by the thirty-first day of December of each year. The 67042
report on each such item shall include the item, the cost of the 67043
item, and the name of the vendor. This report to the board shall 67044
be updated on a quarterly basis for encumbrances remaining open. 67045

Upon the expiration of the reappropriation period set out in 67046
divisions (A), (B), (C), or (D) of this section, a reappropriation 67047
made pursuant to this section lapses, and the Director of Budget 67048
and Management shall cancel the encumbrance of the unexpended 67049
reappropriation not later than the end of the weekend following 67050
the expiration of the reappropriation period. 67051

Notwithstanding the preceding paragraph, with the approval of 67052
the Director of Budget and Management, an unexpended balance of an 67053
encumbrance that was reappropriated on the first day of July 67054
pursuant to this section for a period specified in division (C) or 67055
(D) of this section and that remains encumbered at the close of 67056
the fiscal biennium is hereby reappropriated pursuant to this 67057
section on the first day of July of the following fiscal biennium 67058
from the fund from which it was originally appropriated or 67059
reappropriated for the applicable period specified in division (C) 67060
or (D) of this section and shall remain available only for the 67061
purpose of discharging the encumbrance. 67062

If the Controlling Board approved a purchase, that approval 67063
remains in effect as long as the appropriation used to make that 67064
purchase remains encumbered. 67065

Section 131. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 67066

Notwithstanding any provision of law to the contrary, on or 67067
before the first day of September of each fiscal year, the 67068
Director of Budget and Management, in order to reduce the payment 67069
of adjustments to the federal government, as determined by the 67070
plan prepared pursuant to division (A) of section 126.12 of the 67071
Revised Code, may designate such funds as the director considers 67072
necessary to retain their own interest earnings. 67073

Section 131X. That Section 63.37 of Am. Sub. H.B. 94 of the 67074
124th General Assembly, as most recently amended by Am. Sub. S.B. 67075
261 of the 124th General Assembly, be amended to read as follows: 67076

Sec. 63.37. NURSING FACILITY STABILIZATION FUND 67077

(A) As used in this section: 67078

(1) "Inpatient days" and "nursing facility" have the same 67079
meanings as in section 5111.20 of the Revised Code. 67080

(2) "Medicaid day" means all days during which a resident who 67081
is a Medicaid recipient occupies a bed in a nursing facility that 67082
is included in the facility's certified capacity under Title XIX 67083
of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 67084
1396, as amended. Therapeutic or hospital leave days for which 67085
payment is made under section 5111.33 of the Revised Code are 67086
considered Medicaid days proportionate to the percentage of the 67087
nursing facility's per resident per day rate paid for those days. 67088

(B) The Department of Job and Family Services shall use money 67089
in the Nursing Facility Stabilization Fund created under section 67090
3721.56 of the Revised Code to do all of the following: 67091

(1) Make payments to nursing facilities under sections 67092
5111.20 to 5111.32 of the Revised Code; 67093

(2) Beginning with payments made to nursing facilities in 67094
August 2001, make payments to each nursing facility for each 67095
Medicaid day in fiscal year 2002 in an amount equal to sixty-nine 67096
and seven-tenths per cent of the franchise permit fee the nursing 67097
facility pays under section 3721.53 of the Revised Code for the 67098
fiscal year the department makes the payment divided by the 67099
nursing facility's inpatient days for the calendar year preceding 67100
the calendar year in which that fiscal year begins; 67101

(3) Beginning with payments made to nursing facilities in 67102
August 2002, make payments to each nursing facility for each 67103
Medicaid day in fiscal years 2003, 2004, and 2005 in an amount 67104
equal to seventy-six and seventy-four-hundredths per cent of the 67105
franchise permit fee the nursing facility pays under section 67106
3721.53 of the Revised Code for the fiscal year the department 67107
makes the payment divided by the nursing facility's inpatient days 67108
for the calendar year preceding the calendar year in which that 67109
fiscal year begins; 67110

(4) Beginning with payments made to nursing facilities in 67111
August 2001, make payments to each nursing facility for fiscal 67112
year 2002 in an amount equal to one dollar and fifty cents per 67113
Medicaid day for the purpose of enhancing quality of care; 67114

(5) Beginning with payments made to nursing facilities in 67115
August 2002, make payments to each nursing facility for fiscal 67116
~~years year 2003, 2004, and 2005~~ in an amount equal to two dollars 67117
and twenty-five cents per Medicaid day for the purpose of 67118
enhancing quality of care; 67119

(6) Beginning with payments made to nursing facilities in 67120
August 2003, make payments to each nursing facility for fiscal 67121
years 2004 and 2005 in an amount equal to one dollar and 67122
twenty-five cents per Medicaid day for the purpose of enhancing 67123
quality of care. 67124

(C) Any money remaining in the Nursing Facility Stabilization Fund after payments specified in division (B) of this section are made for fiscal years 2002, 2003, 2004, and 2005 shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make payments in accordance with division (B) of this section.

(D) Notwithstanding division (N) of section 5111.20 of the Revised Code, the Department of Job and Family Services, in making Medicaid payments to a nursing facility under sections 5111.20 to 5111.32 of the Revised Code, shall do both of the following:

(1) Exclude from a nursing facility's other protected costs the cost of sixty-nine and seven-tenths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal year 2002 if the nursing facility receives payments under division (B)(2) of this section for sixty-nine and seven-tenths per cent of those franchise permit fees;

(2) Exclude from a nursing facility's other protected costs the cost of seventy-six and seventy-four-hundredths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal years 2003, 2004, and 2005 if the nursing facility receives payments under division (B)(2) of this section for seventy-six and seventy-four-hundredths per cent of those franchise permit fees.

(E) The limitation of Section 230 of Am. Sub. H.B. 94 of the 124th General Assembly is not applicable to the amendments made by this act to this section.

Section 131Y. That existing Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. S.B. 261 of the 124th General Assembly, is hereby repealed.

Section 131A. That Section 7 of Sub. H.B. 196 of the 124th 67155
General Assembly be amended to read as follows: 67156

Sec. 7. No one-year conditional teaching permit in the area 67157
of intervention specialist shall be issued under this section 67158
later than three years after the effective date of ~~this act~~ Sub. 67159
H.B. 196 of the 124th General Assembly. 67160

Unless the provisions of division (B) or (C) of section 67161
3319.31 of the Revised Code apply to an applicant, the State Board 67162
of Education shall issue a one-year conditional teaching permit in 67163
the area of intervention specialist, as defined by rule of the 67164
state board, to any applicant who meets the following conditions: 67165

(A) Holds a bachelor's degree; 67166

(B) Has successfully completed a basic skills test as 67167
prescribed by the State Board; 67168

(C) Has completed either as part of the applicant's degree 67169
program or separate from it the equivalent of at least fifteen 67170
semester hours of coursework in the principles and practices of 67171
teaching exceptional children, including such topics as child and 67172
adolescent development, diagnosis and assessment of children with 67173
disabilities, curriculum design and instruction, applied 67174
behavioral analysis, and how to best teach students from 67175
culturally diverse backgrounds with different learning styles; 67176

(D) The applicant has entered into a written agreement with 67177
the Department of Education and the school district, community 67178
school, or nonprofit or for profit entity operating an alternative 67179
school under section 3313.533 of the Revised Code that will employ 67180
the applicant under which the district, school, or entity will 67181
provide for the applicant a structured mentoring program in the 67182
teaching of exceptional children that is aligned with the 67183
performance expectations prescribed by State Board rule for 67184

entry-year teachers. 67185

(E) The applicant agrees to complete while employed under the 67186
one-year teaching permit the equivalent of an additional three 67187
semester hours of coursework in the content and methods of 67188
teaching reading. The coursework may be completed through classes 67189
offered by regional professional development providers, such as 67190
special education regional resource centers, ~~regional professional~~ 67191
~~development centers~~, educational service centers, local 67192
educational agencies, professional organizations, and institutions 67193
of higher education, if the coursework is taken for credit in 67194
collaboration with a college or university that has a teacher 67195
education program approved by the State Board. 67196

(F) The applicant agrees to seek at the conclusion of the 67197
year in which the individual is employed under the one-year 67198
teaching permit issued under this section an alternative educator 67199
license issued under section 3319.26 of the Revised Code in the 67200
area of intervention specialist. The applicant shall not be 67201
reemployed by the school district, community school, or nonprofit 67202
or for profit entity operating an alternative school under section 67203
3313.533 of the Revised Code or be employed by another such 67204
district, school, or entity unless that alternative educator 67205
license is issued to the applicant prior to the beginning of the 67206
next school year. 67207

(G) The applicant pays the fee established under section 67208
3319.51 of the Revised Code applicable to one-year conditional 67209
teaching permits issued under section 3319.302 of the Revised 67210
Code. Such fee shall be deposited in the State Board of Education 67211
Licensure Fund in accordance with division (B) of section 3319.51 67212
of the Revised Code. 67213

Section 131B. That existing Section 7 of Sub. H.B. 196 of the 67214
124th General Assembly is hereby repealed. 67215

Section 131C. That Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly be amended to read as follows:

Sec. 5. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Public School Building Fund (Fund 021) that are not otherwise appropriated.

		Reappropriations	
SFC SCHOOL FACILITIES COMMISSION			67222
CAP-622	Public School Buildings	\$ 5,000,000	67223
		<u>24,000,000</u>	67224
CAP-777	Disability Access Projects	\$ 6,000,000	67225
		<u>2,000,000</u>	67226
CAP-778	Exceptional Needs	\$ 24,000,000	67227
CAP-781	Big Eight Renovation Program	\$ 6,770,781	67228
CAP-783	Emergency School Building Assistance	\$ 15,000,000	67229
Total School Facilities Commission		\$ 56,770,781	67230
TOTAL Public School Building Fund		\$ 56,770,781	67231

DISABILITY ACCESS PROJECTS 67232

The amount reappropriated for appropriation item CAP-777, Disability Access Projects, shall be limited to \$2,000,000 and used to fund capital projects pursuant to this section that make buildings more accessible to students with disabilities.

(A) As used in this section: 67237

(1) "Percentile" means the percentile in which a school district is ranked according to the fiscal year 1998 ranking of school districts with regard to income and property wealth under division (B) of section 3318.011 of the Revised Code. 67238-67241

(2) "School district" means a city, local, or exempted village school district, but excludes a school district that is one of the state's twenty-one urban school districts as defined in 67242-67244

division (O) of section 3317.02 of the Revised Code as that 67245
section existed prior to July 1, 1998. 67246

(3) "Valuation per pupil" means a district's total taxable 67247
value as defined in section 3317.02 of the Revised Code divided by 67248
the district's ADM as defined in division (A) of section 3317.02 67249
of the Revised Code as that section existed prior to July 1, 1998. 67250

(B) The School Facilities Commission shall adopt rules for 67251
awarding grants to school districts with a valuation per pupil 67252
less than \$200,000, to be used for construction, reconstruction, 67253
or renovation projects in classroom facilities, the purpose of 67254
which is to improve access to such facilities by physically 67255
handicapped persons. The rules shall include application 67256
procedures. No school district shall be awarded a grant under this 67257
section in excess of \$100,000. In addition, any school district 67258
shall be required to pay a percentage of the cost of the project 67259
for which the grant is being awarded equal to the percentile in 67260
which the district is so ranked. 67261

Section 131D. That existing Section 5 of Am. Sub. H.B. 524 of 67262
the 124 General Assembly is hereby repealed. 67263

Section 131E. That Sections 18.03 and 18.04 of H.B. 675 of 67264
the 124th General Assembly be amended to read as follows: 67265

Appropriations

Sec. 18.03. DMH DEPARTMENT OF MENTAL HEALTH			67266
CAP-479 Community Assistance Projects	\$	3,912,500	67267
		<u>3,662,500</u>	
CAP-906 Campus Consolidation/Automation	\$	12,040,000	67268
CAP-978 Infrastructure Improvements	\$	3,460,000	67269
Total Department of Mental Health	\$	19,412,500	67270
		<u>19,162,500</u>	

COMMUNITY ASSISTANCE PROJECTS		67271
Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County <u>\$250,000 shall be used for the Berea Children's Home.</u>		67272 67273 67274 67275
Sec. 18.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES		67276 67277
	Appropriations	
STATEWIDE AND CENTRAL OFFICE PROJECTS		67278
CAP-480 Community Assistance Projects	\$ 9,441,000	67279
	<u>9,691,000</u>	
CAP-955 Statewide Development Centers	\$ 3,959,000	67280
Total Statewide and Central Office Projects	\$ 13,400,000	67281
	<u>13,650,000</u>	
TOTAL Department of Mental Retardation and Developmental Disabilities	\$ 13,400,000	67282 67283
	<u>13,650,000</u>	
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND	\$ 33,079,012	67284
COMMUNITY ASSISTANCE PROJECTS		67285
The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing		67286 67287 67288 67289 67290 67291 67292 67293 67294 67295 67296 67297

wage provisions in section 176.05 of the Revised Code. 67298

Of the foregoing appropriation item CAP-480, Community 67299
Assistance Projects, \$150,000 shall be used for the Fostoria Area 67300
Community Childhood and Family Center; ~~\$250,000 shall be used for~~ 67301
~~the Berea Children's Home; and~~ \$1,000,000 shall be used for the 67302
Bellefaire Jewish Children's Bureau; and \$500,000 shall be used 67303
for the Achievement Centers for Children in Cuyahoga County. 67304

Section 131F. That existing Sections 18.03 and 18.04 of H.B. 67305
675 of the 124th General Assembly are hereby repealed." 67306

Section 132.01. That Sections 10 and 14 of Am. Sub. S.B. 242 67307
of the 124th General Assembly be amended to read as follows: 67308

Sec. 10. NET SCHOOLNET COMMISSION 67309

Tobacco Master Settlement Agreement Fund Group 67310

S87 228-602 Education Technology \$ 16,500,000 \$ 16,500,000 67311

Trust Fund

TOTAL TSF Tobacco Master 67312

Settlement Agreement Fund 67313

Group \$ 16,500,000 \$ 16,500,000 67314

TOTAL ALL BUDGET FUND GROUPS \$ 16,500,000 \$ 16,500,000 67315

EDUCATION TECHNOLOGY TRUST FUND 67316

The foregoing appropriation item 228-602, Education 67317
Technology Trust Fund, shall be used by the SchoolNet Commission 67318
for grants to school districts and other entities and for the 67319
costs of administering these grants. Of the total amount for 67320
grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio 67321
ONEnet project, \$909,247 in fiscal year 2003 shall be used for the 67322
INFOhio Network, \$298,750 in fiscal year 2003 shall be used for 67323
the JASON Project, \$1,000,000 in fiscal year 2003 shall be used 67324
for RISE Learning Solutions, and \$200,000 in fiscal year 2003 67325

shall be used for the Stark County School Teacher Technical 67326
Training Center. The remaining amount for grants shall be made to 67327
school districts. 67328

The JASON Project shall provide funding for statewide access 67329
and a seventy-five per cent subsidy for statewide licensing of 67330
JASON content for 90,000 middle school students statewide, and 67331
professional development for teachers participating in the JASON 67332
Project. 67333

It is the intent of the General Assembly that the SchoolNet 67334
Commission, in conjunction with RISE Learning Solutions, shall 67335
develop a program that may be conducted in conjunction with 67336
state-supported technology programs, including, but not limited 67337
to, SchoolNet Commission appropriation item 228-406, Technical and 67338
Instructional Professional Development, and appropriation item 67339
228-539, Education Technology, and that shall be designed to 67340
educate preschool staff members and providers on developmentally 67341
appropriate teaching methods, behavior guidance, and literacy and 67342
to involve parents more closely in the education and development 67343
of their children. The program shall include an interactive 67344
instructional component, delivered using satellite television, 67345
Internet, and with facilitation, and shall be distributed to 67346
program participants using the established satellite receiver 67347
dishes on public schools, Head Start centers, and childcare 67348
centers at up to 100 locations throughout the state. The 67349
interactive instructional component of the program shall be 67350
developed to enhance the professional development, training, and 67351
performance of preschool staff members, the education and 67352
care-giving skills of the parents of preschool children, and the 67353
preparation of preschool-age children for learning. 67354

The program shall utilize the grant to continue a 67355
direct-service component that shall include at least three 67356
teleconferences that may be distributed by Ohio-based public 67357

television utilizing satellite or microwave technology in a manner 67358
designed to promote interactive communications between the program 67359
participants located at subsites within the Ohio Educational 67360
Broadcast Network or as determined by the commission. Program 67361
participants shall communicate with trainers and participants at 67362
other program sites through telecommunications and facsimile and 67363
on-line computer technology. As much as possible, the 67364
direct-service component shall utilize systems currently available 67365
in state-supported technology programs and conduct the component 67366
in a manner that promotes innovative, interactive communications 67367
between program participants at all the sites. Parent support 67368
groups and teacher training sessions shall supplement the 67369
teleconferences and shall occur on a local basis. 67370

RISE Learning Solutions may subcontract components of the 67371
program. 67372

Individuals eligible to participate in the program include 67373
those children, their parents, custodians, or guardians, and 67374
preschool staff members who are eligible to participate in a 67375
preschool program as defined in division (A) of section 3301.52 67376
and section 5104.02 of the Revised Code. 67377

The components of the program, including two that shall be 67378
developed in support of teacher proficiency in teaching reading to 67379
prekindergarten and kindergarten to third grade students, at the 67380
direction of the Department of Education, may include: two 67381
three-hour broadcast seminars from a central up-link station, 67382
distributed in up to 88 counties; high production-value video 67383
sought in various locations; and direct interactive adult learning 67384
activities. These two components shall include development of 67385
workbooks and involve at least three small, group-facilitated 67386
follow-up discussion workshops and development and distribution of 67387
at least two home videos. The program shall also provide Internet 67388
access, interactive lines, bulletin board, and CD-ROM. 67389

Upon completion of each of the school years for which the grant was made, RISE Learning Solutions shall issue a report to the commission and members of the General Assembly explaining the goals and objectives determined, the activities implemented, the progress made toward the achievement of the goals and objectives, and the outcome of the program.

The commission shall use the remaining appropriation authority in fiscal year 2003 and appropriation authority granted in fiscal year 2004 to establish and equip, through the SchoolNet Plus Program, at least one interactive computer station for each five children enrolled in the sixth grade as determined by a three-year average adjusted per pupil property valuation pursuant to division (A) of section 3317.03 of the Revised Code. Districts in the first two quartiles of wealth shall receive up to \$380 per pupil for students in grade six to purchase classroom computers for the sixth grade. Districts in the third and fourth quartile shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a district has met the state's goal of one computer to every five students, the district may use funds provided through the SchoolNet Plus Program to purchase computers for grade seven or to fulfill educational technology needs on other grades as specified in the district's technology plan. When there is at least one computer for each five children enrolled in the sixth grade, SchoolNet shall use any remaining funds appropriated to establish and equip at least one interactive computer workstation for each five children enrolled in the seventh grade as determined by the previously defined formula.

Sec. 14. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Education Facilities Trust Fund (Fund N87) that are not otherwise appropriated.

	Appropriations	
SFC SCHOOL FACILITIES COMMISSION		67421
CAP-780 Classroom Facilities Assistance Program	\$ 148,400,000	67422
	<u>25,600,000</u>	
Total School Facilities Commission	\$ 148,400,000	67423
	<u>25,600,000</u>	
TOTAL Education Facilities Trust Fund	\$ 148,400,000	67424
	<u>25,600,000</u>	

Section 132.02. That existing Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly is hereby repealed.

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 the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

Section 132.08. That existing 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, is hereby repealed.

Section 132.09. That Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, be amended to read as follows:

Sec. 27. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2004:

REVISED CODE 67469

OR

~~UNCODIFIED~~ 67470

UNCODIFIED

AGENCY NAME	SECTION	
		67471
Advisory Council on Amusement Ride Safety	1711.51	67472
Advisory Board of Directors for Prison Labor	5145.162	67473
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA	67474
Apprenticeship Council	4111.26	67475
Armory Board of Control	5911.09	67476
Banking Commission	1123.01	67477
Board of Voting Machine Examiners	3506.05(B)	67478
Board of Governors, Medical Malpractice Joint Underwriting Association	3929.77	67479
Board of Tax Appeals	5703.02	67480
Brain Injury Advisory Committee Committee	3304.231 3304.231	67481
Capitol Square Review and Advisory Board	105.41	67482
Child Support Guideline Advisory Council	3113.215(G)	67483
Children's Trust Fund Board	3109.15	67484
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	67485
Citizen's Advisory Council (Dept. of Mental Health)	5119.81	67486
Civilian Conservation Advisory Committee	1553.10	67487
Coastal Resources Advisory Council	1506.12	67488
Commission on African American Males	4112.12	67489
Commission on Hispanic-Latino Affairs	121.31	67490
Commodity Advisory Commission	926.32	67491
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	67492
Continuing Education Committee (for sheriffs)	109.80	67493
Controlling Board	127.12	67494
Council on Alcohol and Drug Addiction Services	3793.09	67495
Council on Unreclaimed Strip Mine Lands	1513.29	67496
County Sheriffs' Standard Car Marking and Uniform	311.25	67497

Commission		
Criminal Sentencing Advisory Committee	181.22	67498
Day-Care Advisory Council	5104.08	67499
Development Financing Advisory Council	122.40	67500
Electrical Safety Inspector Advisory Committee	3783.08	67501
Engineering Experiment Station Advisory Committee	3335.27	67502
Environmental Review Appeals Commission	3745.02	67503
Environmental Education Council	3745.21	67504
Forestry Advisory Council	1503.40	67505
Governor's Community Service Council	121.40	67506
Governor's Council on People with Disabilities	3303.41	67507
Hazardous Waste Facility Board	3734.05	67508
Health Care Quality Advisory Council	4121.442	67509
Health Data Advisory Committee	3729.61	67510
Hemophilia Advisory Council	3701.145	67511
Historic Site Preservation Advisory Board	149.301	67512
Home Health Agency Advisory Council	3701.88	67513
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76	67514
Industrial Commission	4121.02	67515
Industrial Commission Nominating Council	4121.04	67516
Industrial Technology and Enterprise Advisory Council	122.29	67517
Insurance Agent Education Advisory Council	3905.483	67518
Interagency Recycling Market Development Workgroup	1502.10	67519
Joint Select Committee on Volume Cap	133.021	67520
Labor-Management Government Advisory Council	4121.70	67521
Legal Rights Service Commission	5123.60	67522
Martha Kinney Cooper Ohioana Library Association Board of Trustees	3375.62	67523
Maternal and Child Health Council	3701.025	67524
Medicaid Long-Term Care Reimbursement Study	5111.34	67525

Council		
Medically Handicapped Children's Medical Advisory Council	3701.025	67526
Milk Sanitation Board	917.03	67527
Mine Subsidence Insurance Governing Board	3929.51	67528
Multi-Agency Radio Communication Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	67529
Multidisciplinary Council	3746.03	67530
National Museum of Afro-American History and Culture Planning Committee	149.303	67531
Ohio Advisory Council for the Aging	173.03	67532
Ohio Arts Council	3379.02	67533
Ohio Arts and Sports Facilities Commission	3383.02	67534
Ohio Benefit Systems Data Linkage Committee	125.24	67535
Ohio Bicentennial Commission	149.32	67536
Ohio Cemetery Dispute Resolution Commission	4767.05	67537
Ohio Commission on Dispute Resolution and Conflict Management	179.02	67538
Ohio Educational Telecommunications Network Commission	3353.02	67539
Ohio Ethics Commission	102.05	67540
Ohio Expositions Commission	991.02	67541
Ohio Family and Children First Cabinet Council	121.37	67542
Ohio Geology Advisory Council	1505.11	67543
Ohio Grape Industries Committee	924.51	67544
Ohio Historical Society Board of Trustees	149.30	67545
Ohio Lake Erie Commission	1506.21	67546
Ohio Medical Quality Foundation	3701.89	67547
Ohio Natural Areas Council	1517.03	67548
Ohio Parks and Recreation Council	1541.40	67549
Ohio Peace Officer Training Commission	109.71	67550
Ohio Public Defender Commission	120.01	67551
Ohio Quarter Horse Development Commission	3769.086	67552

Ohio Scenic Rivers Advisory Councils	1517.18	67553
Ohio Small Government Capital Improvements Commission	164.02	67554
Ohio Soil and Water Conservation Commission	1515.02	67555
Ohio Standardbred Development Commission	3769.085	67556
Ohio Steel Industry Advisory Council	122.97	67557
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	67558
Ohio Thoroughbred Racing Advisory Committee	3769.084	67559
Ohio Tuition Trust Authority	3334.03	67560
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	67561
Ohio Vendors Representative Committee	3304.34	67562
Ohio Veterans' Home Board of Trustees	5907.02	67563
Ohio War Orphans Scholarship Board	5910.02	67564
Ohio Water Advisory Council	1521.031	67565
Oil and Gas Commission	1509.35	67566
Organized Crime Investigations Commission	177.01	67567
Parole Board	5149.10	67568
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81	67569
Physical Fitness and Sports Advisory Board	3701.77	67570
Power Siting Board	4906.02	67571
Private Water Systems Advisory Council	3701.346	67572
Public Employment Risk Reduction Advisory Commission	4167.02	67573
Public Utilities Commission Nominating Council	4901.021	67574
Reclamation Commission	1513.05	67575
Recreation and Resources Commission	1501.04	67576
Recycling and Litter Prevention Advisory Council	1502.04	67577
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	67578
Select Commission on Pyrotechnics	Sec. 3, H.B.	67579

	508, 119th GA	
Services Committee of the Workers' Compensation System	4121.06	67580
Set Aside Review Board	123.151(C)(4)	67581
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	67582
Solid Waste Management Advisory Council	3734.51	67583
State Board of Deposit	135.02	67584
State Board of Library Examiners	3375.47	67585
State Council of Uniform State Laws	105.21	67586
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32	67587
State Criminal Sentencing Commission	181.21	67588
State Fire Commission	3737.81	67589
State and Local Government Commission of Ohio	105.45	67590
State Victims Assistance Advisory Committee	109.91	67591
Student Tuition Recovery Authority	3332.081	67592
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55	67593
Submerged Lands Advisory Council	1506.37	67594
Tax Credit Authority	122.17	67595
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35	67596
Technical Advisory Council on Oil and Gas	1509.38	67597
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA	67598
Unemployment Compensation Review Commission	4141.06	67599
Unemployment Compensation Advisory Council	4141.08	67600
Utility Radiological Safety Board	4937.02	67601
Veterans Advisory Committee	5902.02(K)	67602
Water and Sewer Commission	1525.11(C)	67603

Waterways Safety Council	1547.73	67604
Welfare Oversight Council	5101.93	67605
Wildlife Council	1531.03	67606
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA	67607
Wright-Dunbar State Heritage Commission	149.321	67608

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.

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 132.14. 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 132.14A. Section 3 of Sub. H.B. 403 of the 123rd General Assembly is hereby repealed.

Section 132.15. * The amendment of sections 4779.08 to 4779.12, 4779.15 to 4779.18, 4779.20 to 4779.27, 4779.30, 4779.32, and 4779.33 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

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 AGREEMENT FUND TO THE GENERAL REVENUE FUND

Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2004, the Director of Budget and Management may transfer up to \$242,800,000 to the General Revenue Fund from the Tobacco Master Settlement Agreement Fund (Fund 087), as provided in divisions (A) and (B) of this section:

(A) Up to \$120,000,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

(B) Up to \$122,800,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the

Tobacco Master Settlement Agreement Fund to the Education 67659
Facilities Trust Fund shall be reduced by the amount that is 67660
transferred from the Tobacco Master Settlement Agreement Fund to 67661
the General Revenue Fund in accordance with this division. 67662

Section 134. TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT 67663
DISTRIBUTIONS 67664

(A) On or before the seventh day of each month of the period 67665
July 2003 through June 2005, the Tax Commissioner shall determine 67666
and certify to the Director of Budget and Management the amount to 67667
be credited, by tax, during that month to the Local Government 67668
Fund, to the Library and Local Government Support Fund, and to the 67669
Local Government Revenue Assistance Fund, respectively, pursuant 67670
to divisions (B), (C), and (D) of this section. 67671

(B) Notwithstanding section 5727.84 of the Revised Code to 67672
the contrary, for the period July 1, 2003, through June 30, 2005, 67673
no amounts shall be credited to the Local Government Fund or to 67674
the Local Government Revenue Assistance Fund from the kilowatt 67675
hour tax, and such amounts that would have otherwise been required 67676
to be credited to such funds shall instead be credited to the 67677
General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 67678
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 67679
for each month in the period July 1, 2003, through June 30, 2005, 67680
from the public utility excise, corporate franchise, sales, use, 67681
and personal income taxes collected; 67682

(1) An amount shall first be credited to the Local Government 67683
Fund that equals the amount credited to that fund from that tax 67684
according to the schedule in division (C) of this section. 67685

(2) An amount shall next be credited to the Local Government 67686
Revenue Assistance Fund that equals the amount credited to that 67687
fund from that tax according to the schedule in division (C) of 67688
this section. 67689

(3) An amount shall next be credited to the Library and Local Government Support Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2004 pursuant to division (C) of this section, the amount credited in fiscal year 2003 shall be before the transfer made from the Library and Local Government Support Fund to the OPLIN Technology Fund under Section 70 of Am. Sub. H.B. 94 of the 124th General Assembly. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2005 pursuant to division (C) of this section, the amount credited in fiscal year 2004 shall be before any transfer required to be made from the Library and Local Government Support Fund to the OPLIN Technology Fund.

(C) The amounts shall be credited from each tax to each respective fund as follows:

(1) In July 2003, one hundred per cent of the amount credited in July 2002; in July 2004, one hundred per cent of the amount credited in July 2003;

(2) In August 2003, one hundred per cent of the amount credited in August 2002; in August 2004, one hundred per cent of the amount credited in August 2003;

(3) In September 2003, one hundred per cent of the amount credited in September 2002; in September 2004, one hundred per cent of the amount credited in September 2003;

(4) In October 2003, one hundred per cent of the amount credited in October 2002; in October 2004, one hundred per cent of the amount credited in October 2003;

(5) In November 2003, one hundred per cent of the amount

credited in November 2002; in November 2004, one hundred per cent	67721
of the amount credited in November 2003;	67722
(6) In December 2003, one hundred per cent of the amount	67723
credited in December 2002; in December 2004, one hundred per cent	67724
of the amount credited in December 2003;	67725
(7) In January 2004, one hundred per cent of the amount	67726
credited in January 2003; in January 2005, one hundred per cent of	67727
the amount credited in January 2004;	67728
(8) In February 2004, one hundred per cent of the amount	67729
credited in February 2003; in February 2005, one hundred per cent	67730
of the amount credited in February 2004;	67731
(9) In March 2004, one hundred per cent of the amount	67732
credited in March 2003; in March 2005, one hundred per cent of the	67733
amount credited in March 2004;	67734
(10) In April 2004, one hundred per cent of the amount	67735
credited in April 2003; in April 2005, one hundred per cent of the	67736
amount credited in April 2004;	67737
(11) In May 2004, one hundred per cent of the amount in	67738
division (C)(11)(a) of this section; in May 2005, one hundred per	67739
cent of the amount in division (C)(11)(b) of this section;	67740
(a) The amount credited in May 2003, less any amount reduced	67741
pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of	67742
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the	67743
124th General Assembly and as amended by Am. Sub. H.B. 390 of the	67744
124th General Assembly;	67745
(b) The amount credited in May 2004.	67746
(12) In June 2004, one hundred per cent of the amount in	67747
division (C)(12)(a) of this section, less any reduction required	67748
under division (D)(1) of this section; in June 2005, one hundred	67749
per cent of the amount in division (C)(12)(b) of this section,	67750

less any reduction required under division (D)(2) of this section; 67751

(a) The amount credited in June 2003 before any reduction 67752
made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 67753
94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 67754
of the 124th General Assembly and as amended by Am. Sub. H.B. 390 67755
of the 124th General Assembly; 67756

(b) The amount credited in June 2004. 67757

(D) The Tax Commissioner shall do each of the following: 67758

(1) By June 7, 2004, the commissioner shall subtract the 67759
amount calculated in division (D)(1)(b) of this section from the 67760
amount calculated in division (D)(1)(a) of this section. If the 67761
amount in division (D)(1)(a) of this section is greater than the 67762
amount in division (D)(1)(b) of this section, then such difference 67763
shall be subtracted from the total amount of income tax revenue 67764
credited to the Local Government Fund, the Local Government 67765
Revenue Assistance Fund, and the Library and Local Government 67766
Support Fund in June 2004. An amount shall be subtracted from 67767
income tax revenue credited to the Local Government Fund, the 67768
Local Government Revenue Assistance Fund, or the Library and Local 67769
Government Support Fund only if, and according to the proportion 67770
by which, such fund contributed to the result that the amount in 67771
division (D)(1)(a) of this section exceeds the amount in division 67772
(D)(1)(b) of this section. 67773

(a) The sum of all money credited to the Local Government 67774
Fund, the Local Government Revenue Assistance Fund, and the 67775
Library and Local Government Support Fund from July 2003 through 67776
May 2004; 67777

(b) The sum of all money that would have been credited to the 67778
Local Government Fund, the Local Government Revenue Assistance 67779
Fund, and the Library and Local Government Support Fund from July 67780
2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 67781

5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 67782
during this period. 67783

(2) By June 7, 2005, the commissioner shall subtract the 67784
amount calculated in division (D)(2)(b) of this section from the 67785
amount calculated in division (D)(2)(a) of this section. If the 67786
amount in division (D)(2)(a) of this section is greater than the 67787
amount in division (D)(2)(b) of this section, then such difference 67788
shall be subtracted from the total amount of income tax revenue 67789
credited to the Local Government Fund, the Local Government 67790
Revenue Assistance Fund, and the Library and Local Government 67791
Support Fund in June 2005. An amount shall be subtracted from 67792
income tax revenue credited to the Local Government Fund, the 67793
Local Government Revenue Assistance Fund, or the Library and Local 67794
Government Support Fund only if, and according to the proportion 67795
by which, such fund contributed to the result that the amount in 67796
division (D)(2)(a) of this section exceeds the amount in division 67797
(D)(2)(b) of this section. 67798

(a) The sum of all money credited to the Local Government 67799
Fund, the Local Government Revenue Assistance Fund, and the 67800
Library and Local Government Support Fund from June 2004 through 67801
May 2005; 67802

(b) The sum of all money that would have been credited to the 67803
Local Government Fund, the Local Government Revenue Assistance 67804
Fund, and the Library and Local Government Support Fund from June 67805
2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 67806
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 67807
during this period. 67808

(3) On the advice of the Tax Commissioner, during any month 67809
other than June 2004 or June 2005 of the period July 1, 2003, 67810
through July 31, 2005, the Director of Budget and Management may 67811
reduce the amounts that are to be otherwise credited to the Local 67812
Government Fund, Local Government Revenue Assistance Fund, or 67813

Library and Local Government Support Fund in order to accomplish 67814
more effectively the purposes of the adjustments in divisions 67815
(D)(1) and (2) of this section. If the respective calculations 67816
made in June 2004 and June 2005 pursuant to divisions (D)(1) and 67817
(2) of this section indicate that excess reductions had been made 67818
during the previous months, such excess amounts shall be credited, 67819
as appropriate, to the Local Government Fund, Local Government 67820
Revenue Assistance Fund, and Library and Local Government Support 67821
Fund. 67822

(E) Notwithstanding any other provision of law to the 67823
contrary, the total amount credited to each fund in each month 67824
during the period July 2003 through June 2005 shall be distributed 67825
by the tenth day of the immediately succeeding month in the 67826
following manner: 67827

(1) Each county undivided local government fund shall receive 67828
a distribution from the Local Government Fund based on its 67829
proportionate share of the total amount received from the fund in 67830
such respective month for the period July 1, 2002, through June 67831
30, 2003. 67832

(2) Each municipality receiving a direct distribution from 67833
the Local Government Fund shall receive a distribution based on 67834
its proportionate share of the total amount received from the fund 67835
in such respective month for the period July 1, 2002, through June 67836
30, 2003. 67837

(3) Each county undivided local government revenue assistance 67838
fund shall receive a distribution from the Local Government 67839
Revenue Assistance Fund based on its proportionate share of the 67840
total amount received from the fund in such respective month for 67841
the period July 1, 2002, through June 30, 2003. 67842

(4) Each county undivided library and local government 67843
support fund shall receive a distribution from the Library and 67844

Local Government Support Fund based on its proportionate share of 67845
the total amount received from the fund in such respective month 67846
for the period July 1, 2002, through June 30, 2003. 67847

(F) For the 2003, 2004, and 2005 distribution years, the Tax 67848
Commissioner is not required to issue the certifications otherwise 67849
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 67850
the Revised Code, but shall provide to each county auditor by the 67851
twentieth day of July 2003, July 2004, and July 2005 an estimate 67852
of the amounts to be received by the county in the ensuing year 67853
from the Local Government Fund, Local Government Revenue 67854
Assistance Fund, and Library and Local Government Support Fund 67855
pursuant to this section and any pertinent section of the Revised 67856
Code. The Tax Commissioner may choose to report to each county 67857
auditor a revised estimate of the 2003, 2004, or 2005 67858
distributions at any time during the period July 1, 2003, through 67859
July 31, 2005. 67860

(G) If provisions of H.B. 40 of the 124th General Assembly 67861
are enacted that authorize reductions in the amounts credited to 67862
the Local Government Fund, Local Government Revenue Assistance 67863
Fund, and Library and Local Government Support Fund during fiscal 67864
year 2003, the fiscal year 2003 amounts used in determining the 67865
amounts credited to such funds during fiscal year 2004 pursuant to 67866
division (C) of this section shall be before any such reductions. 67867

(H) During the period July 1, 2003, through July 31, 2005, 67868
the Director of Budget and Management shall issue those directives 67869
to state agencies that are necessary to ensure that the 67870
appropriate amounts are distributed to the Local Government Fund, 67871
to the Local Government Revenue Assistance Fund, and to the 67872
Library and Local Government Support Fund. 67873

Section 135. TRANSFER TO THE BUDGET STABILIZATION FUND 67874

On or before June 30, 2005, the Director of Budget and 67875

Management shall transfer \$100,000,000 from the General Revenue Fund to the Budget Stabilization Fund (Fund 013). 67876
67877

Section 136. * BOND MONEY APPROPRIATION TO SFC 67878

All items set forth in this section are hereby appropriated 67879
out of any moneys in the state treasury to the credit of the 67880
School Building Program Assistance Fund (Fund 032), created under 67881
section 3318.25 of the Revised Code, derived from the proceeds of 67882
obligations heretofore and herein authorized to pay the cost of 67883
facilities for a system of common schools throughout the state for 67884
the period beginning July 1, 2002, and ending June 30, 2004. The 67885
appropriation shall be in addition to any other appropriation for 67886
this purpose. 67887

Appropriations

SFC SCHOOL FACILITIES COMMISSION 67888

CAP-770 School Building Program Assistance	\$ 122,800,000	67889
Total School Facilities Commission	\$ 122,800,000	67890
TOTAL School Building Program Assistance Fund	\$ 122,800,000	67891

* SCHOOL BUILDING PROGRAM ASSISTANCE 67892

The foregoing appropriation item CAP-770, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the Commission pursuant to Chapter 3318. of the Revised Code. Expenditures from appropriations contained in this section may be accounted for as though made for the fiscal year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. The School Facilities Commission shall not commit any of the appropriations made in this section until after April 1, 2004.

* BOND ISSUANCE AUTHORITY 67902

The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with the provisions of Section 2n of

Article VIII, Ohio Constitution, and Chapter 151. and particularly 67905
sections 151.01 and 151.03 of the Revised Code, original 67906
obligations in an aggregate principal amount not to exceed 67907
\$123,000,000, in addition to the original issuance of obligations 67908
heretofore authorized by prior acts of the General Assembly. The 67909
authorized obligations shall be issued, subject to applicable 67910
constitutional and statutory limitations, to pay the costs to the 67911
state of previously authorized capital facilities and the capital 67912
facilities authorized in this section for the School Building 67913
Program Assistance Fund pursuant to Chapter 3318. of the Revised 67914
Code. 67915

Section 136A. (A) On the effective date of this section, the 67916
following programs administered by the Ohio School Facilities 67917
Commission are terminated: 67918

(1) The Short-Term Loan Program established by Section 10.01 67919
of Am. Sub. H.B. 282 of the 123rd General Assembly; 67920

(2) The Extreme Environmental Contamination Program 67921
established by Section 10.02 of Am. Sub. H.B. 282 of the 123rd 67922
General Assembly, as subsequently amended; 67923

(3) The Emergency School Repair Program codified in section 67924
3318.35 of the Revised Code; 67925

(4) The School Building Emergency Assistance Program codified 67926
in section 3318.351 of the Revised Code. 67927

No new school district shall be served under any of these 67928
programs. The Commission may continue serving school districts 67929
that were receiving assistance under any of these programs before 67930
the effective date of this section in accordance with terms and 67931
agreements in effect on that date. 67932

(B) On March 31, 2004, the Disability Access Program 67933
established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd 67934

General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd 67935
General Assembly, as subsequently amended, Section 10 of Am. Sub. 67936
H.B. 282 of the 123rd General Assembly, as subsequently amended, 67937
Section 102.01 of Am. Sub. H.B. 94 of the 124th General Assembly, 67938
and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly 67939
is terminated. 67940

No new school district shall be served under this program. 67941
The Commission may continue serving school districts that were 67942
receiving assistance under this program before the effective date 67943
of this section in accordance with terms and agreements in effect 67944
on that date. 67945

On April 1, 2004, the Director of Budget and Management shall 67946
transfer the unencumbered and unallotted balance in appropriation 67947
item CAP-777, Disability Access Projects, to appropriation item 67948
CAP-662, Public School Buildings. The amount transferred from 67949
CAP-777, Disability Access Projects, shall be used to fund 67950
classroom facilities projects in accordance with Chapter 3318. of 67951
the Revised Code. Any amounts transferred are hereby appropriated. 67952

Section 137A. CREATION OF A JOINT VOCATIONAL-COMMUNITY 67953
COLLEGE IN WARREN COUNTY 67954

(A) Notwithstanding section 3333.05 of the Revised Code, the 67955
Ohio Board of Regents shall issue a charter for a new community 67956
college, as defined by division (C) of section 3354.01 of the 67957
Revised Code, to be operated jointly with the Warren County Career 67958
Center on a pilot basis in fiscal years 2004 and 2005, provided 67959
the following conditions are met: 67960

(1) The Warren County Career Center joint vocational school 67961
board approves, by resolution, the establishment of a joint 67962
vocational-community college within the Career Center. 67963

(2) The local workforce policy board, established under 67964

section 6301.06 of the Revised Code, in which the majority of the 67965
Career Center territory is located approves, by resolution, the 67966
establishment of a joint vocational-community college within the 67967
Career Center. 67968

(3) The Warren County Career Center joint vocational school 67969
board and the local workforce policy board submit a community 67970
college plan that conforms to the requirements of section 3354.07 67971
of the Revised Code to the Board of Regents. 67972

(B) The joint vocational-community college established under 67973
this section shall function as: 67974

(1) A provider of career-technical education to secondary 67975
school students subject to all laws applicable to joint vocational 67976
school districts under Title XXXIII of the Revised Code, unless 67977
this section provides otherwise; 67978

(2) A provider of arts and sciences and technical 67979
instructional programs, not exceeding two years' duration, for 67980
postsecondary school students, subject to all laws applicable to 67981
community colleges under Chapters 3345. and 3354. of the Revised 67982
Code, unless this section provides otherwise; 67983

(3) A provider of arts and sciences and technical 67984
instructional programs for secondary school students participating 67985
in the postsecondary enrollment options program under Chapter 67986
3365. of the Revised Code. 67987

(C) Within ninety days of the establishment of the joint 67988
vocational-community college under this section, the joint 67989
vocational-community college shall be managed and controlled by a 67990
board of education comprised of all members of the joint 67991
vocational school district board of education holding office in 67992
accordance with section 3311.19 of the Revised Code and members 67993
appointed by the Governor in a number that is equivalent to 67994
one-third of the number of members of the joint vocational school 67995

district board of education. 67996

The members appointed by the Governor shall be 67997
representatives of the business community who reside within the 67998
territory of the joint vocational school district. Appointed 67999
members shall serve for terms ending June 30, 2005. Vacancies 68000
shall be filled in the same manner as original appointments. Any 68001
member appointed to fill a vacancy occurring prior to the 68002
expiration of the term for which the member's predecessor was 68003
appointed shall hold office for the remainder of such term. 68004

All members of the joint vocational-community college board 68005
of education are eligible for compensation, expense reimbursement, 68006
and training program expenses as provided by section 3311.19 of 68007
the Revised Code. 68008

Except as provided in this section, upon the formation of the 68009
joint vocational-community college board of education, the board 68010
shall have all the same powers, duties, and authority for the 68011
management and operation of the joint vocational-community college 68012
as is granted by law to both a joint vocational school district 68013
board of education and community college board of trustees under 68014
the Revised Code. 68015

(D) The community college district of the joint 68016
vocational-community college is comprised of the same territory as 68017
the Warren County Career Center joint vocational school district. 68018

(E) In accordance with section 3333.04 of the Revised Code, 68019
the Board of Regents shall approve appropriate associate degree 68020
programs to be offered by the joint vocational-community college. 68021

(F) In calculating the subsidy entitlement of the joint 68022
vocational-community college for activities performed in 68023
furtherance of its duties under division (B)(2) of this section, 68024
the Board of Regents shall assign the institution to categories 68025
described in the formulas established in Section 88.04 of this act 68026

and use the procedures required by the system of formulas that 68027
have been established by the Board of Regents. The joint 68028
vocational-community college shall only be eligible to receive 68029
eighty per cent of the subsidy entitlement calculated under this 68030
division. 68031

(G) The joint vocational-community college established by 68032
this section shall be ineligible to receive state financial 68033
assistance for capital improvements otherwise available to 68034
community colleges under Chapter 3345. or 3354. of the Revised 68035
Code. 68036

(H) All funds received by the joint vocational-community 68037
college to carry out its duties under division (B)(1) and (3) of 68038
this section shall be kept separate from all funds received by the 68039
joint vocational-community college to carry out its duties under 68040
division (B)(2) of this section. All revenues from taxes levied by 68041
the joint vocational school district shall be kept separate from 68042
all revenues of any taxes levied by the community college 68043
district. 68044

(I) The joint vocational-community college is eligible for 68045
classroom facilities assistance under sections 3318.40 to 3318.46 68046
of the Revised Code. 68047

(J) By June 30, 2005, the board of education of the joint 68048
vocational-community college shall submit a report to the Board of 68049
Regents on the status of the joint vocational-community college 68050
pilot program. This report shall include information on the 68051
effectiveness of the pilot program, statistics of students 68052
enrolling in postsecondary courses for college credit, retention 68053
rates of students enrolling in courses for college credit, and any 68054
other information that the board of education or the Board of 68055
Regents determines to be relevant. 68056

Section 137B. (A) As used in this section, "pharmacy 68057

provider" has the same meaning as in rule 5101:3-9-01 of the Administrative Code.

(B) The Department of Job and Family Services shall establish the Medication Management Incentive Payment Program for state fiscal years 2004 and 2005 for pharmacy services provided Medicaid recipients other than those who reside in a nursing facility or an intermediate care facility for the mentally retarded. Any pharmacy provider that serves Medicaid recipients may elect to participate in the Program in one or both of the state fiscal years that it is in effect.

(C) The Department of Job and Family Services shall do the following:

(1) Determine the statewide monthly average cost of providing pharmacy services to Medicaid recipients other than those who reside in a nursing home or an intermediate care facility for the mentally retarded during the last quarter of the biennium ending June 30, 2003;

(2) Establish a reimbursement rate for pharmacy services provided under the Medication Management Incentive Payment Program for the first quarter of the biennium ending June 30, 2005.

(D) Under the Medication Management Incentive Payment Program:

(1) If a participating pharmacy provider's average monthly cost of providing pharmacy services to a number of Medicaid recipients specified by the Department of Job and Family Services in a quarter after the first quarter of the biennium ending June 30, 2005, is greater than or equal to the statewide monthly average cost of providing pharmacy services during the last quarter of the biennium ending June 30, 2003, the pharmacy provider shall be reimbursed at the rate established by the Department for the first quarter of the biennium ending June 30,

2005. 68089

(2) If a participating pharmacy provider's average monthly 68090
cost of providing pharmacy services to the number of Medicaid 68091
recipients specified by the Department of Job and Family Services 68092
in a quarter after the first quarter of the biennium ending June 68093
30, 2005, is less than the statewide monthly average cost of 68094
providing pharmacy services during the last quarter of the 68095
biennium ending June 30, 2003, the pharmacy provider shall be 68096
reimbursed at an enhanced rate established by the Department. 68097

(E) A pharmacy provider that elects to participate in the 68098
program may achieve a reduction in its average monthly cost for 68099
providing pharmacy services to Medicaid recipients by providing 68100
consulting services to the physicians who prescribe drugs to the 68101
recipient. These consulting services may include recommendations 68102
for eliminating unnecessary and duplicative drug therapies, 68103
modifying inefficient drug regimens, and implementing safe and 68104
cost-effective drug therapies. 68105

(F) The Department of Job and Family Services shall adopt, in 68106
accordance with Chapter 119. of the Revised Code, any rule it 68107
considers necessary to develop and administer the Medication 68108
Management Incentive Payment Program. The rules may provide for 68109
compensation for physicians who consult with pharmacy providers 68110
that participate in the program. 68111

Section 137C. OFFICE OF QUALITY SERVICES FUND TRANSFERS 68112

Notwithstanding any other provision of law to the contrary, 68113
the Director of Budget and Management shall transfer any remaining 68114
amounts of cash from the following specified obsolete fund to the 68115
General Revenue Fund within thirty days after the effective date 68116
of this section: Quality Services (General Services Fund 4C1). The 68117
amount of such transfer to the General Revenue Fund is hereby 68118
appropriated to General Revenue Fund appropriation item 042-409, 68119

Commission Closures. 68120

Section 137D. TRANSFER FROM BOARD OF TAX APPEALS 68121

Notwithstanding any other provision of law to the contrary, 68122
on July 31, 2003, or as soon thereafter as possible, the Director 68123
of Budget and Management shall transfer any remaining amounts of 68124
cash from the following specified obsolete fund to the General 68125
Revenue Fund: Reproduction of Decisions (General Services Fund 68126
439). 68127

Section 138. (A) As used in this section, "nursing facility" 68128
means a facility, or a distinct part of a facility, that is 68129
certified as a nursing facility by the Director of Health for 68130
purposes of the Medicaid Program and is not an intermediate care 68131
facility for the mentally retarded. "Nursing facility" includes a 68132
facility, or a distinct part of a facility, that is certified as a 68133
skilled nursing facility by the Director of Health for purposes of 68134
the Medicare Program. 68135

(B) The Director of Health shall request from the Secretary 68136
of the United States Department of Health and Human Services 68137
approval to develop an alternative regulatory procedure for 68138
nursing facilities subject to federal regulation. If the Secretary 68139
gives approval, the Director shall convene the Nursing Facility 68140
Regulatory Reform Task Force. 68141

(C) The Director of Health shall serve as chair of the Task 68142
Force. The Director of Aging, the Director of Job and Family 68143
Services, the State Long-Term Care Ombudsman, or persons they 68144
designate and a member of the Governor's staff designated by the 68145
Governor shall serve on the Task Force. The Director of Health 68146
shall appoint the following individuals to serve on the Task 68147
Force: 68148

(1) Two representatives of the Ohio Health Care Association; 68149

(2) Two representatives of the Association of Ohio Philanthropic Homes and Housing for the Aging;	68150 68151
(3) Two representatives of the Ohio Academy of Nursing Homes;	68152
(4) Two representatives of the American Association of Retired Persons (AARP);	68153 68154
(5) Two representatives of Families for Improved Care;	68155
(6) A representative from the Ohio Association of Regional Long-Term Care Ombudsman Programs;	68156 68157
(7) A representative of the 1199 League of Registered Nurses;	68158
(8) A representative of the American Federation of State, County, and Municipal Employees.	68159 68160
(D) Except to the extent that service on the task force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the State for expenses incurred in carrying out their duties on the Task Force. The Scripps Gerontology Center at Miami University shall provide technical and support services for the Task Force.	68161 68162 68163 68164 68165 68166
(E) The Task Force shall do all of the following:	68167
(1) Review the effectiveness of current regulatory procedures for nursing facilities regarding the quality of care and quality of life of nursing facility residents;	68168 68169 68170
(2) Develop recommendations for improved regulatory procedures for nursing facilities to improve the quality of care and quality of life of nursing facility residents;	68171 68172 68173
(3) Evaluate potential effects on nursing facility residents of elimination of components of the Certificate of Need program pertaining to long-term care facilities;	68174 68175 68176
(4) Develop possible demonstration projects to present the potential of proposed changes to the regulatory procedure to	68177 68178

increase the quality of care and the quality of life of nursing facility residents. 68179
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(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. 68181
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(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. 68187
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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, arising out of matters of statewide concern, and are designed for the health, safety, and welfare of contractors, their employees, and the public. 68192
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Section 139.02. 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 power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, and other gaseous piping systems will continue to be inspected as part of the building permit process, enforcement of plumbing and mechanical 68201
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building codes, and occupancy certification. The purpose of this 68209
legislative action is solely to eliminate duplicative inspection 68210
personnel and fees. 68211

Section 140. DISABILITY ASSISTANCE TRANSITION 68212

(A) Subject to the provisions of Chapter 5115. of the Revised 68213
Code, as amended, enacted, and repealed by this act, the 68214
Disability Financial Assistance Program constitutes a continuation 68215
of the financial assistance component of the Disability Assistance 68216
Program established under Chapter 5115. of the Revised Code, as it 68217
existed prior to the effective date of this section, and the 68218
Disability Medical Assistance Program constitutes a continuation 68219
of the medical assistance component of the Disability Assistance 68220
Program. 68221

Any business commenced but not completed on behalf of the 68222
Disability Assistance Program shall be completed in the same 68223
manner, and with the same effect, on behalf of the Disability 68224
Financial Assistance Program and the Disability Medical Assistance 68225
Program. 68226

Except as provided in division (B) and (C) of this section, 68227
all rules, orders, and determinations regarding the Disability 68228
Assistance Program continue in effect as rules, orders, and 68229
determinations regarding the Disability Financial Assistance 68230
Program and the Disability Medical Assistance Program, until 68231
modified or rescinded. 68232

Wherever the Disability Assistance Program is referred to in 68233
any law, contract, or other document, the reference shall be 68234
deemed to refer to the Disability Financial Assistance Program or 68235
the Disability Medical Assistance Program, whichever is 68236
appropriate. 68237

(B) Notwithstanding any determination through administrative 68238

or judicial order or otherwise, a person who was receiving 68239
financial assistance under the Disability Assistance Program prior 68240
to the effective date of this section ceases to be eligible for 68241
continued financial assistance under the Disability Financial 68242
Assistance Program on the effective date of this section, unless 68243
one of the following is the case: 68244

(1) The person was receiving the assistance on the basis of 68245
being age 60 or older or on the basis of being unable to do any 68246
substantial or gainful activity by reason of a medically 68247
determinable physical or mental impairment that can be expected to 68248
result in death or has lasted or can be expected to last for not 68249
less than nine months. 68250

(2) The person was receiving the assistance by meeting other 68251
eligibility requirements but applies for Disability Financial 68252
Assistance pursuant to section 5115.05 of the Revised Code, as 68253
amended by this act, and receives a determination of eligibility 68254
by meeting the requirements specified in section 5115.01 of the 68255
Revised Code, as amended by this act. 68256

(C) Notwithstanding the provisions of section 5115.10 of the 68257
Revised Code, as amended by this act, that limit eligibility for 68258
disability medical assistance to persons determined to be 68259
medication dependent, both of the following apply: 68260

(1) The Director of Job and Family Services may adopt rules 68261
in accordance with section 111.15 of the Revised Code providing 68262
for and governing temporary provision of disability medical 68263
assistance to persons who were recipients of medical assistance 68264
under the Disability Assistance Program prior to the effective 68265
date of this section. 68266

(2) A person's eligibility for disability medical assistance 68267
may continue pursuant to the rules adopted under division (C)(1) 68268
of this section until the state or county department of job and 68269

family services conducts a redetermination of the person's 68270
eligibility in accordance with the requirement that recipients be 68271
medication dependent, unless the person otherwise becomes 68272
ineligible for disability medical assistance. 68273

Section 140.01. * Notwithstanding sections 5101.60 to 5101.70 68274
of the Revised Code, as amended or enacted by this act, cases 68275
referred to a county department of job and family services under 68276
section 5126.31 and investigations by the department of reports 68277
provided for in section 5101.61 of the Revised Code that were 68278
initiated before the effective date of this section shall be 68279
completed in accordance with the law as it existed on the date the 68280
referrals or reports were made. The county department of job and 68281
family services may provide necessary protective services in those 68282
cases if funding is locally available. 68283

Section 142.02A. STATE SERVICES REVIEW 68284

(A) The Office of Budget and Management shall review all 68285
services provided by the state that are of a commercial nature, 68286
including services provided by public universities, to determine 68287
which of those services may be opened to competition with private 68288
enterprise. 68289

(B) Not later than December 31, 2003, the Office of Budget 68290
and Management shall issue a report to the Governor, the Speaker 68291
of the House of Representatives, and the President of the Senate 68292
regarding the review conducted under division (A) of this section. 68293
The report shall identify which services of a commercial nature 68294
provided by the state may be opened to competition with private 68295
enterprise and shall contain recommendations on the manner in 68296
which those services may be opened to competition. 68297

(C) By July 1, 2004, the Office of Budget and Management 68298
shall implement a program to open to competition with private 68299

enterprise at least five per cent of the services identified as 68300
capable of being opened to such competition in the report issued 68301
under division (B) of this section. 68302

(D)(1) The Office of Budget and Management shall develop a 68303
proposal, subject to approval by the General Assembly, for a 68304
program to provide incentives to public employees and state 68305
agencies for identifying services provided by this state that may 68306
be opened to competition with private enterprise and for 68307
implementing programs to open those services to such competition. 68308
The incentives provided in the proposal may include, but are not 68309
limited to, both of the following: 68310

(a) Cash payments made to employees; 68311

(b) State agencies retaining a percentage of any budgetary 68312
savings realized through the implementation of competition with 68313
private enterprise. 68314

(2) The Office of Budget and Management shall submit the 68315
proposal developed under division (D)(1) of this section to the 68316
General Assembly not later than March 31, 2004. 68317

(E) As used in this section: 68318

(1) "Commercial" means performing services or providing goods 68319
that normally can be obtained from a private enterprise. 68320

(2) "Private enterprise" means an individual, firm, 68321
partnership, joint venture, corporation, association, or other 68322
legal entity engaging, in the private sector, in the 68323
manufacturing, processing, sale, offering for sale, rental, 68324
leasing, delivery, dispensing, distributing, or advertising of 68325
goods or services for profit. 68326

Section 142.02B. STATE SERVICES REVIEW 68327

(A) The Office of Budget and Management shall review the 68328
structure of delivery of all administrative support services 68329

within the government of the state. The review shall include, but 68330
shall not be not limited to, each of the following categories of 68331
administrative support services: 68332

(1) Fiscal management and oversight; 68333

(2) Human resources; 68334

(3) Purchasing; 68335

(4) Printing; 68336

(5) Fleet management; 68337

(6) Contracting. 68338

(B) The purpose of the review conducted under this section 68339
shall be to determine the efficiency of the provision of 68340
administrative support services within state government. For each 68341
category of administrative support services, the review shall 68342
include all of the following: 68343

(1) An accounting of all personnel engaged in the relevant 68344
service; 68345

(2) Consideration of the responsibility and role of each 68346
service; 68347

(3) A determination of the existence of duplicative equipment 68348
and systems; 68349

(4) The appropriate level of oversight; 68350

(5) The current role of the Department of Administrative 68351
Services and the Office of Budget and Management in providing 68352
oversight; 68353

(6) Operational efficiencies; 68354

(7) The cost of providing the services. 68355

(C) Not later than January 31, 2004, the Office of Budget and 68356
Management shall issue a report to the General Assembly making 68357

recommendations for the consolidation, reformation, and 68358
restructuring of the services reviewed under division (A) of this 68359
section. The report shall identify any changes required to be made 68360
to codified or uncodified statutes to implement its 68361
recommendations. 68362

Section 142.02C. STATE SERVICES REVIEW 68363

(A) The Office of Budget and Management shall develop a 68364
rating system for evaluating the effectiveness of all state 68365
programs. In evaluating the effectiveness of state programs, the 68366
rating system may consider all of the following: 68367

(1) The cost of the program; 68368

(2) The accountability of any spending by the program; 68369

(3) The appropriateness of state government providing the 68370
services offered through the program; 68371

(4) The impact of the program; 68372

(5) Whether the program is meeting its stated goals, if any. 68373

(B) Not later than May 1, 2004, the Office of Budget and 68374
Management shall submit the rating system developed under division 68375
(A) of this section to the General Assembly. If the General 68376
Assembly fails to prohibit the rating system from taking effect 68377
within sixty days after the rating system is so submitted, the 68378
Office of Budget and Management shall implement the rating system. 68379

(C) If a rating system is implemented under division (B) of 68380
this section, the Governor, in submitting the proposed operating 68381
budget for the 2006-2007 biennium to the General Assembly, shall 68382
include with that proposed budget a catalog indicating the rating 68383
received by each program operated by this state. 68384

Section 142.02D. STATE SERVICES REVIEW 68385

(A) There is hereby created the Asset and Enterprise Review Committee, the purposes of which are to inventory and appraise all assets and enterprises of the state, to review those assets and enterprises to determine which of them may be sold, leased, or otherwise removed from state ownership or operation, to make recommendations as to the process and timeframe for the disposal of such assets and enterprises, and to make recommendations regarding the manner in which any cost savings realized through the disposal of such assets and enterprises shall be dispersed. In determining the manner in which cost savings shall be dispersed, the Committee shall consider recommending that the agency that owns or controls the asset or enterprise being disposed of be allowed to retain a portion of the savings realized through that disposal.

(B)(1) The Committee shall consist of thirteen members to be appointed as follows:

(a) The Director of Administrative Services or the Director's designee;

(b) The Director of Budget and Management, or the Director's designee;

(c) Two members of the Governor's administration, to be appointed by the Governor;

(d) Three members of the House of Representatives, to be appointed by the Speaker of the House of Representatives;

(e) Three members of the Senate, to be appointed by the President of the Senate;

(f) One member of the private sector, to be appointed by the Governor;

(g) One member of the private sector, to be appointed by the Speaker of the House of Representatives;

(h) One member of the private sector, to be appointed by the President of the Senate. 68416
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(2) Members shall be appointed within thirty days after the effective date of this section. Vacancies on the Committee shall be filled in the manner provided for original appointments. 68418
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(3) In appointing the legislative members of the Committee, the Speaker of the House of Representatives and the President of the Senate each shall designate one member as a co-chairperson of the Committee. The co-chairpersons shall convene such meetings of the Committee as they consider necessary to carry out its purposes. 68421
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(C) Members of the Committee shall receive no compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties. 68427
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(D) For the sole purpose of permitting membership on the Committee and the holding of any other public office or employment, membership on the Committee does not constitute the holding of any other public office or employment. No member of the Committee is disqualified from holding any public office or employment, nor does any member of the Committee forfeit any public office or employment, by reason of the member's position as a member of the Committee. 68430
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(E) Not later than December 31, 2003, the Committee shall prepare its inventory, appraisal, and all required recommendations and file a written copy of them with the Governor, the Speaker of the House of Representatives, and the President of the Senate. When the Committee has filed its inventory, appraisal, and recommendations as required by this division, it shall cease to exist. 68438
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Section 142.02E. By not later than September 1, 2004, the 68445

Department of Administrative Services shall issue a report to the 68446
General Assembly that indicates how it has implemented the 68447
recommendations from the 2002 report entitled "Administrative 68448
Analysis of the Ohio Fleet Management Program" or explain why the 68449
Department has not implemented the recommendations. 68450

Section 145.01. * The Hemophilia Advisory Council established 68451
under section 3701.145 of the Revised Code, renumbered as section 68452
3701.0210 of the Revised Code by this act, is hereby abolished. 68453

Section 145.03. * Upon the taking effect of this section, the 68454
Hazardous Waste Facility Board is abolished. 68455

All of the rules adopted by the Hazardous Waste Facility 68456
Board are abolished on that date. The Director of the Legislative 68457
Service Commission shall remove the rules from the Administrative 68458
Code as if they had been rescinded. 68459

On and after the effective date of this section and until the 68460
Director of Environmental Protection adopts rules that eliminate 68461
references to the Hazardous Waste Facility Board, whenever the 68462
Hazardous Waste Facility Board or Board, when "Board" refers to 68463
the Hazardous Waste Facility Board, is referred to in a rule, the 68464
reference shall be deemed to refer to the Environmental Protection 68465
Agency or the Director of Environmental Protection, whichever is 68466
appropriate. As expeditiously as possible after the effective date 68467
of this section, the Director of Environmental Protection shall 68468
adopt rules eliminating references to the Hazardous Waste Facility 68469
Board. 68470

Permits or modifications issued by the Hazardous Waste 68471
Facility Board under section 3734.05 of the Revised Code as that 68472
section existed prior to its amendment by this act shall continue 68473
in effect as if the Director had issued the permits or 68474
modifications under section 3734.05 of the Revised Code after the 68475

effective date of its amendment by this act. Any application 68476
pending before the Hazardous Waste Facility Board on the effective 68477
date of this section shall be transferred to the Environmental 68478
Protection Agency for approval or disapproval by the Director. All 68479
records, files, and other documents of the Hazardous Waste 68480
Facility Board shall be transferred to the Environmental 68481
Protection Agency. 68482

Section 145.03A. (A) There is hereby created the Ohio Autism 68483
Task Force consisting of the following members: 68484

(1) All of the following persons to be appointed by the 68485
Governor: 68486

(a) A person diagnosed with autism; 68487

(b) Four persons who are parents of children diagnosed with 68488
autism; 68489

(c) A special education administrator of an Ohio school 68490
district; 68491

(d) A representative of the Ohio Association of County Boards 68492
of Mental Retardation and Developmental Disabilities; 68493

(e) A representative of the Ohio Developmental Disabilities 68494
Council; 68495

(f) A representative of the Autism Society of Ohio; 68496

(g) A developmental pediatrician who is a member of the Ohio 68497
Association of Pediatricians; 68498

(h) Two representatives from private schools in Ohio that 68499
provide special education services to children diagnosed with 68500
autism; 68501

(i) Two representatives from Ohio hospitals that provide 68502
services to children diagnosed with autism. 68503

(2) Two members of the House of Representatives, one from the 68504

majority party and one from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President of the Senate;

(4) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;

(5) The Director of Job and Family Services or the Director's designee;

(6) The Superintendent of Public Instruction or the Superintendent's designee.

(B) All appointments and designations to the Task Force shall be made not later than thirty days after the effective date of this section. Any vacancy that occurs on the Task Force shall be filled in the same manner as the original appointment. The members of the Task Force shall serve without compensation.

(C) The initial meeting of the Task Force shall be held not later than sixty days after the effective date of this section. At its initial meeting, the Task Force shall elect from its membership a chairperson and other officers it considers necessary. Thereafter, the Task Force shall meet on the call of the chairperson.

(D) The Department of Mental Retardation and Developmental Disabilities shall provide meeting facilities and other support as necessary for the Task Force.

(E) The Task Force shall study and make recommendations regarding both of the following:

(1)The growing incidence of autism in Ohio;

(2)Ways to improve the delivery in this state of autism services.

(F) Not later than one year after the effective date of this section, the Task Force shall submit a written report of its recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(G) On submission of its report, the Task Force shall cease to exist.

Section 145.03B. (A) There is hereby created the Task Force to Eliminate Health Services Duplication. The Director of Administrative Services shall serve as chairperson. The Directors of Aging, Alcohol and Drug Addiction Services, Health, Mental Health, Mental Retardation and Developmental Disabilities, and Budget and Management, and the Executive Director of the Commission on Minority Health, or persons they designate, shall serve on the Task Force. The Commission on Dispute Resolution and Conflict Management shall provide technical and support services for the Task Force.

(B) Except to the extent that service on the Task Force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the state for expenses incurred in carrying out their duties on the Task Force.

(C) The Task Force shall do all of the following:

(1) Evaluate the feasibility of combining all or parts of the Department of Aging, the Department of Alcohol and Drug Addiction Services, the Commission on Minority Health, the Department of Health, the Department of Mental Health, and the Department of Mental Retardation and Developmental Disabilities to eliminate duplication of services;

(2) Evaluate the feasibility of establishing a central procurement point for basic operational services associated with each department, including human resources, training, research,

legislative information, fiscal management, and public 68565
information. 68566

(D) Not later than March 31, 2004, the Task Force shall 68567
submit a report of its findings and recommendations to the Speaker 68568
and Minority Leaders of the House of Representatives and to the 68569
President and Minority Leader of the Senate. On submission of its 68570
report, the Task Force shall cease to exist. 68571

Section 145.03C. Upon the taking effect of this section, the 68572
State Board of Orthotics, Prosthetics, and Pedorthics is abolished 68573
and all of its functions, and assets and liabilities, are 68574
transferred to the State Medical Board. The State Medical Board is 68575
thereupon and thereafter successor to, assumes the obligations of, 68576
and otherwise constitutes the continuation of State Board of 68577
Orthotics, Prosthetics, and Pedorthics. 68578

Any business commenced but not completed by the State Board 68579
of Orthotics, Prosthetics, and Pedorthics or the Secretary of the 68580
Board on the effective date of this section shall be completed by 68581
the State Medical Board or the President of the State Medical 68582
Board in the same manner, and with the same effect, as if 68583
completed by the State Board of Orthotics, Prosthetics, and 68584
Pedorthics or the Secretary of the State Board of Orthotics, 68585
Prosthetics, and Pedorthics. No validation, cure, right, 68586
privilege, remedy, obligation, or liability is lost or impaired by 68587
reason of the transfer required by this section and shall be 68588
administered by the State Medical Board. All of the State Board of 68589
Orthotics, Prosthetics, and Pedorthics's rules, orders, and 68590
determinations continue in effect as rules, orders, and 68591
determinations of the State Medical Board, until modified or 68592
rescinded by the State Medical Board. If necessary to ensure the 68593
integrity of the numbering of the Administrative Code, the 68594
Director of the Legislative Service Commission shall renumber the 68595

State Board of Orthotics, Prosthetics, and Pedorthics's rules to 68596
reflect their transfer to the State Medical Board. 68597

Subject to the lay-off provisions of sections 124.321 to 68598
124.328 of the Revised Code, all of the State Board of Orthotics, 68599
Prosthetics, and Pedorthics's employees are transferred to the 68600
State Medical Board and retain their positions and all of the 68601
benefits accruing thereto. 68602

The Director of Budget and Management shall determine the 68603
amount of the unexpended balances in the appropriate accounts that 68604
pertain to the State Board of Orthotics, Prosthetics, and 68605
Pedorthics and shall recommend to the Controlling Board their 68606
transfer to the appropriation accounts that pertain to the State 68607
Medical Board. The Secretary of the State Board of Orthotics, 68608
Prosthetics, and Pedorthics shall provide full and timely 68609
information to the Controlling Board to facilitate this transfer. 68610

Wherever the State Board of Orthotics, Prosthetics, and 68611
Pedorthics or the Secretary of the State Board of Orthotics, 68612
Prosthetics, and Pedorthics is referred to in any law, contract, 68613
or other document, the reference shall be deemed to refer to the 68614
State Medical Board or President of the State Medical Board, 68615
whichever is appropriate. 68616

No action or proceeding pending on the effective date of this 68617
section is affected by the transfer, and shall be prosecuted or 68618
defended in the name of the State Medical Board or the President 68619
of the State Medical Board. In all such actions and proceedings, 68620
the State Medical Board or President of the State Medical Board 68621
upon application to the court shall be substituted as a party. 68622

Section 145.03E. On July 1, 2003, the Ohio Coal Development 68623
Office of the Department of Development is abolished and all of 68624
its functions, and assets and liabilities, are transferred to the 68625
Ohio Coal Development Office of the Ohio Air Quality Development 68626

Authority. The Ohio Coal Development Office of the Ohio Air 68627
Quality Development Authority is thereupon and thereafter 68628
successor to, assumes the obligations of, and otherwise 68629
constitutes the continuation of the Ohio Coal Development Office 68630
of the Department of Development. 68631

Any business commenced but not completed by the Ohio Coal 68632
Development Office of the Department of Development or the 68633
Director of that office on the effective date of this section 68634
shall be completed by the Ohio Coal Development Office of the Ohio 68635
Air Quality Development Authority or the Director of that office 68636
in the same manner, and with the same effect, as if completed by 68637
the Ohio Coal Development Office of the Department of Development 68638
or the Director of that office. Any validation, cure, right, 68639
privilege, remedy, obligation, or liability is not lost or 68640
impaired by reason of the transfer required by this section and 68641
shall be administered by the Ohio Coal Development Office of the 68642
Ohio air Quality Development Authority. All of the rules, orders, 68643
and determinations of the Ohio Coal Development Office of the 68644
Department of Development or of the Director of Development in 68645
relation to that office continues in effect as rules, orders, and 68646
determinations of the Ohio Coal Development Office of the Ohio Air 68647
Quality Development Authority, until modified or rescinded by that 68648
office or by the Ohio Air Quality Development Authority in 68649
relation to that office. If necessary to ensure the integrity of 68650
the numbering of the Administrative Code, the Director of the 68651
Legislative Service Commission shall renumber rules of the 68652
Director of Development in relation to the Ohio Coal Development 68653
Office of the Department of Development to reflect their transfer 68654
to the Ohio Air Quality Development Authority. 68655

Subject to the lay-off provisions of sections 124.321 to 68656
124.328 of the Revised Code, all of the employees of the Ohio Coal 68657
Development Office of the Department of Development are 68658

transferred to the Ohio Coal Development Office of the Ohio Air
Quality Development Authority and retain their positions and all
the benefits accruing thereto, except they shall be in the
unclassified service and shall serve at the pleasure of the
Authority.

Whenever the Ohio Coal Development Office in the Department
of Development or the Director of Development in relation to that
office is referred to in any law, contract, or other document, the
reference shall be deemed to refer to the Ohio Coal Development
Office of the Ohio Air Quality Development Authority or the
Authority in relation to that office, whichever is appropriate.

Any action or proceeding pending on the effective date of
this section is not affected by the transfer and shall be
prosecuted or defended in the name of the Ohio Air Quality
Development Authority or its Ohio Coal Development Office. In all
such actions and proceedings, the Ohio Air Quality Development
Authority or its Ohio Coal Development Office upon application to
the court shall be substituted as a party.

Section 145.03F. The Parole Board shall review the sentences
of prisoners who are confined in state correctional institutions
and who were sentenced under the Felony Sentencing Law that was in
effect prior to July 1, 1996, to determine the appropriateness of
those sentences and to determine whether the length of any of
those sentences should be adjusted. The Parole Board shall conduct
this review in cooperation with the Department of Rehabilitation
and Correction. The Parole Board shall prepare a report that
contains its findings and makes recommendations regarding further
action. Not later than one year after the effective date of this
section, the Parole Board shall submit the report to the Speaker
and Minority Leader of the House of Representatives, the President
and Minority Leader of the Senate, the chair of the House Criminal

Justice Committee, and the chair of the Senate Judiciary Committee 68690
on Criminal Justice. 68691

As used in this section, "state correctional institution" has 68692
the same meaning as in section 2967.01 of the Revised Code. 68693

Section 145.03G. On September 1, 2003, and subject to the 68694
lay-off provisions of sections 124.321 to 124.328 of the Revised 68695
Code, all employees of state agencies, as defined by section 68696
125.831 of the Revised Code as repealed and re-enacted by this 68697
act, who are responsible for the purchase, lease, repair, 68698
maintenance, registration, and insuring, and for all other 68699
responsibilities related to the possession and operation of, motor 68700
vehicles used by a state agency are transferred to the Department 68701
of Administrative Services and shall retain their positions and 68702
all of the benefits accruing thereto. 68703

Section 145.03H. On September 1, 2003, motor vehicles used by 68704
state agencies, as each term is defined by section 125.831 of the 68705
Revised Code as repealed and re-enacted by this act, that have 68706
been driven 1,200 business miles or less per month for the 68707
previous twelve months shall be considered excess and shall be 68708
returned by the state agency to the Department of Administrative 68709
Services for reassignment or sale. Proceeds from the sale of motor 68710
vehicles used by the Bureau of Workers' Compensation or the 68711
Industrial Commission shall be paid to the credit of the State 68712
Insurance Fund. Proceeds from the sale of all other motor vehicles 68713
shall be paid to the credit of the Budget Stabilization Fund. 68714

Section 145.03I. As used in this section, "qualified 68715
property" means property that satisfies the qualifications for tax 68716
exemption under the terms of section 5709.14 of the Revised Code. 68717

Notwithstanding section 5713.081 of the Revised Code, when 68718
qualified property has not received tax exemption due to a failure 68719

to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property, at any time on or before six months after the effective date of this section, may file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest on the property be abated.

The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and shall list the name of the county in which the property is located; the property's legal description; its taxable value; the amount in dollars of the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during any time that the unpaid taxes accrued; and any other information required by the Tax Commissioner. The county auditor shall supply the required information upon request of the applicant.

Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the property before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The Tax Commissioner shall not consider an application filed under this section unless such a certificate is attached to it.

Upon receipt of the application and after consideration of it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax exempt list of the county and that all unpaid taxes, penalties,

and interest for every year the property met the qualifications 68752
for exemption described in section 5709.14 of the Revised Code be 68753
abated. If the Tax Commissioner finds that the property is not now 68754
being so used or is being used for a purpose that would foreclose 68755
its right to tax exemption, the Tax Commissioner shall issue an 68756
order denying the application. 68757

If the Tax Commissioner finds that the property is not 68758
entitled to tax exemption and to the abatement of unpaid taxes, 68759
penalties, and interest for any of the years for which the owner 68760
claims an exemption or abatement, the Tax Commissioner shall order 68761
the county treasurer of the county in which the property is 68762
located to collect all taxes, penalties, and interest due on the 68763
property for those years in accordance with law. 68764

The Tax Commissioner may apply this section to any qualified 68765
property that is the subject of an application for exemption 68766
pending before the Tax Commissioner on the effective date of this 68767
section, without requiring the property owner to file an 68768
additional application. The Tax Commissioner also may apply this 68769
section to any qualified property that is the subject of an 68770
application for exemption filed on or after the effective date of 68771
this section and on or before six months after that effective 68772
date, even though the application does not expressly request 68773
abatement of unpaid taxes. 68774

Section 145.03J. (A) The amendment, repeal and reenactment, 68775
or enactment by this act of sections 718.01, 718.02, 718.021, 68776
718.03, 718.031, 718.05, 718.051, and 718.121 of the Revised Code 68777
apply to taxable years beginning on or after January 1, 2004. 68778

(B) The amendment by this act of sections 718.11, 5717.011, 68779
and 5717.03 of the Revised Code apply to matters relating to 68780
taxable years beginning on or after January 1, 2004. 68781

Section 145.03K. * Not later than thirty days after the 68782
effective date of this section, one or more individuals 68783
representing municipal government interests shall be appointed to 68784
the steering committee that directs the continuing development of 68785
the Ohio Business Gateway. These individuals shall assist in the 68786
development of the enhancements to the Ohio Business Gateway that 68787
affect municipal tax administration and issues related to such 68788
administration, including, but not limited to, banking issues, 68789
technological issues, and administrative convenience issues for 68790
municipalities and taxpayers. 68791

Section 145.03L. Within thirty days after the effective date 68792
of section 4121.12 of the Revised Code as amended by this act, the 68793
Workers' Compensation Oversight Commission Nominating Committee 68794
shall submit a list of names to the Governor to fill the two 68795
additional memberships of the Workers' Compensation Oversight 68796
Commission as provided in that section. Within fourteen days after 68797
receiving the list from the Nominating Committee, the Governor 68798
shall appoint the two additional members of the Oversight 68799
Commission for initial terms of four and five years respectively. 68800
Thereafter, appointments of members to fill the two additional 68801
member positions shall be for five years in accordance with the 68802
requirements of section 4121.12 of the Revised Code as amended by 68803
this act. 68804

Section 145.03M. The local registrar of vital statistics 68805
shall commence numbering still birth certificates pursuant to 68806
section 3705.07 of the Revised Code with the first still birth 68807
certificate issued on or after the effective date of this act. 68808

Section 145.03N. Sections 5739.01, 5739.011, 5739.02, 68809
5739.12, and 5741.02 of the Revised Code, as amended by this act, 68810

apply on and after July 1, 2003. 68811

Section 145.030. Sections 107.32 and 107.33 of the Revised 68812
Code shall apply to all state institutional facilities, as defined 68813
in section 107.32 of the Revised Code, that were in operation on 68814
or after January 1, 2003. 68815

Section 145.03P. The Director of Administrative Services 68816
shall inquire into entering into multistate purchasing contracts 68817
in carrying out the department's duties pursuant to Chapter 125. 68818
of the Revised Code. Not later than December 31, 2003, the 68819
director shall file a report with the general assembly detailing 68820
the director's findings. The report shall include recommendations 68821
on any legislation necessary to authorize multistate purchasing 68822
contracts. 68823

Section 145.03Q. EMPLOYMENT CAP ON STATE EMPLOYEES 68824

During the biennium beginning July 1, 2003, and ending June 68825
30, 2005, no state employee shall be hired if the hiring would 68826
cause the overall number of state employees to exceed the number 68827
as of December 31, 2002. "State employee" includes, but is not 68828
limited to, a person employed by a state agency, board, or 68829
commission, a state institution of higher education as defined in 68830
section 3345.011 of the Revised Code, or a state retirement 68831
system. The Director of Budget and Management shall adopt 68832
procedures to ensure compliance with this section. 68833

Section 145.03R. The Legislative Office of Education 68834
Oversight shall conduct a review of partnership agreements between 68835
a Head Start provider and a provider of child care or day care 68836
services. In conducting this review, the Office shall analyze the 68837
following: 68838

(A) The impact on literacy-readiness for children receiving 68839

services as a result of such agreements; 68840

(B) The costs and benefits of such agreements to both 68841
participant children and the providers who are parties to the 68842
agreements. In analyzing the costs and benefits of such 68843
agreements, the Office shall examine the financial costs and 68844
benefits to providers who are parties to the agreements and to 68845
families of participant children. Additionally, the Office shall 68846
examine intangible costs and benefits to participant children, 68847
such as intellectual, emotional, and physical benefits or 68848
detriments caused by service under such agreements. 68849

(C) The operation of the agreements. In analyzing the 68850
operation of the agreements, the Office shall review how the 68851
agreements work, how well the agreements work, what components are 68852
included in the agreements, and whether the agreements are unique 68853
to the providers who are parties to the agreements or standardized 68854
across the state or within a local region. 68855

(D) Whether there is an administrative entity, such as a 68856
county department of job and family services, that oversees the 68857
implementation of a particular agreement. If there is such an 68858
entity that oversees an agreement, the Office shall examine the 68859
degree to which oversight is performed and what overhead costs the 68860
administrative entity incurs in overseeing such agreements. 68861

The Office shall submit the final results of this study to 68862
the General Assembly not later than December 31, 2004. 68863

Section 145.03S. OBJECT CODE 13 EXPENDITURE REDUCTIONS 68864

The Director of Budget and Management shall reduce General 68865
Revenue Fund Object Code 13 expenditures by \$19,919,464 in each 68866
fiscal year without disrupting essential services of the state. No 68867
Object Code 13 reductions shall be made for the Department of 68868
Education, the Department of Mental Health, the Department of 68869

Mental Retardation and Developmental Disabilities, the Department 68870
of Rehabilitation and Correction, the Board of Regents, and the 68871
Department of Youth Services. 68872

Section 145.03T. (A) Within one hundred twenty days after the 68873
effective date of this section, the Director of Agriculture, the 68874
Director of Rehabilitation and Correction, and the Director of 68875
Youth Services shall develop a plan to optimize the quantity and 68876
use of food grown and harvested in state correctional institutions 68877
or secure facilities operated by the Department of Youth Services 68878
in the most cost-effective manner. The plan shall include methods 68879
to increase production at farms operated by either department and 68880
shall include methods to ensure that the highest possible 68881
percentage of food consumed at state correctional institutions and 68882
secure facilities operated by the Department of Youth Services is 68883
food grown and harvested at a state correctional institution or 68884
secure facility operated by the Department of Youth Services. 68885

(B) The plan shall consider possible amendments to the 68886
Revised Code, amendments to the Administrative Code, 68887
administrative changes, financial strategies, strategies to obtain 68888
a reliable workforce, and any other means to optimize the quantity 68889
and use of food of that nature in state correctional institutions 68890
and secure facilities operated by the Department of Youth 68891
Services. 68892

The plan and its findings, conclusions, and any 68893
recommendations and proposed legislation shall be submitted to the 68894
Speaker of the House of Representatives, the President of the 68895
Senate, the Governor, the Director of Rehabilitation and 68896
Correction, and the Director of Youth Services. 68897

(C) As used in this section, "state correctional institution" 68898
has the same meaning as in section 2967.01 of the Revised Code. 68899

Section 145.03U. The Ohio Lottery Commission shall not
conduct lotteries that provide immediate prize determinations for
individual participants through the use of electronic gaming
devices under Chapter 3770. of the Revised Code as affected by
this act if a majority of the electors voting approve of the
prohibition described in the question to be submitted to the
electors under Section 145.03W of this act.

Section 145.03W. After this act is filed with the Secretary
of State, the Secretary of State shall submit to the electors of
the entire state at the election to be held on November 4, 2003,
as a single proposal, the question of prohibiting electronic
lottery devices as authorized by Section 145.03U of this act.

Notwithstanding section 3519.21 of the Revised Code, the
title and ballot language for the proposal shall be substantially
as follows:

"PROHIBITION OF ELECTRONIC LOTTERY DEVICES

Shall the State of Ohio be prohibited from operating
electronic lottery devices at licensed horseracing tracks?

	Yes
	No

"

The Speaker of the House of Representatives and the President
of the Senate each shall appoint three individuals in favor of
this question to draft and file arguments for the question and
shall appoint three individuals against this question to draft and
file arguments against the question. Arguments shall be filed with
the Secretary of State no later than seventy-five days before the
election and shall not exceed three hundred words. The arguments

shall not be printed or included on the ballot but shall be 68929
disseminated in the same manner as arguments relating to 68930
constitutional amendments under division (C) of section 3505.063 68931
of the Revised Code. 68932

Upon the filing of this act with the Secretary of State, the 68933
Racing Commission shall certify to the Ohio Lottery Commission the 68934
names of the holders of permits to conduct a racing meeting 68935
pursuant to Chapter 3769. of the Revised Code, other than holders 68936
of permits issued for racing meetings at a county or independent 68937
fair, and the locations at which the permit holders conducted live 68938
horseracing in the prior seven calendar years. 68939

Section 145.03X. Not later than October 31, 2003, the Ohio 68940
Lottery Commission shall implement sections 3770.21 to 3770.30 of 68941
the Revised Code, as enacted by this act, based on the willingness 68942
and ability of each electronic lottery sales agent, as defined in 68943
section 3770.21 of the Revised Code, to cooperate in its 68944
implementation, except that the Commission shall not conduct the 68945
lotteries that provide immediate prize determinations for 68946
individual participants through the use of electronic gaming 68947
devices. If a majority of the votes cast on the question submitted 68948
pursuant to Section 145.03W of this act is in the negative, the 68949
Commission shall commence conducting these lotteries by December 68950
31, 2003. 68951

Section 145.03Y. If a majority of the voters voting on the 68952
question proposed pursuant to Section 145.03W of this act do not 68953
vote in favor thereof, the rate of the tax levied under section 68954
5739.02 and 5741.02 of the Revised Code, as amended by this act, 68955
on and after July 1, 2004, shall be the rates prescribed in 68956
section 5739.025 of the Revised Code, notwithstanding sections 68957
5739.02 and 5741.02 of the Revised Code, as amended by this act, 68958
to the contrary. 68959

Section 145.03Z. Prior to December 31, 2018, an electronic lottery sales agent, as defined in section 3770.21 of the Revised Code, and the Thoroughbred Horsemen's Association or Ohio Harness Horsemen's Association may provide by written agreement filed with the State Lottery Commission and the State Racing Commission that an amount equal to one per cent of the gross proceeds of the lotteries conducted under section 3770.22 of the Revised Code shall be paid by the agent to one or more of the following funds, as designated by the appropriate horsemen's organization:

(A) The Ohio Fairs Fund created under section 3769.082 of the Revised Code;

(B) The Ohio Thoroughbred Race Fund created under section 3769.083 of the Revised Code;

(C) The Ohio Standardbred Development Fund created by section 3769.085 of the Revised Code;

(D) The Ohio Quarter Horse Development Fund created by section 3769.086 of the Revised Code.

If an agreement is entered into under this section, the amount required to be added to the purse money by the electronic lottery sales agent under division (A)(3) of section 3770.26 of the Revised Code shall be reduced by one per cent.

Section 145.03AA. The agreement between the Ohio Lottery Commission and the electronic lottery sales agent shall provide that a one-time licensing fee equal to eight thousand dollars for each electronic lottery device located at the premises of an electronic lottery sales agent shall be paid by the agent to the Commission before an electronic lottery gaming device may be operated. If an electronic lottery device is replaced by another device, no additional licensing fee is required for the replacement device. Notwithstanding the provisions of section

3770.25 of the Revised Code, from the date of payment of the 68990
device licensing fees through June 30, 2004, the thirty-seven and 68991
one-half per cent referred to in division (A)(1) of section 68992
3770.26 of the Revised Code shall be changed to forty and one-half 68993
per cent, the ten and one-half per cent referred to in division 68994
(A)(2) of section 3770.26 of the Revised Code shall be changed to 68995
nine per cent, and the ten per cent referred to in division (A)(2) 68996
of section 3770.26 of the Revised Code shall be changed to eight 68997
and one-half per cent. From July 1, 2004, until a date determined 68998
by the rules of the Lottery Commission, the thirty-seven and 68999
one-half per cent referred to in division (A)(1) of section 69000
3770.26 of the Revised Code shall be changed to thirty-nine per 69001
cent, the ten and one-half per cent referred to in division (A)(2) 69002
of section 3770.26 of the Revised Code shall be changed to nine 69003
per cent, and the ten per cent referred to in division (A)(2) of 69004
section 3770.26 of the Revised Code shall be changed to eight and 69005
one-half per cent. The Lottery Commission shall adopt rules to 69006
require filing by electronic lottery sales agents of all documents 69007
relating to borrowing or financing by agents of device licensing 69008
fees and determining the date at which the financing or borrowing 69009
is retired and then providing that the provisions of this section 69010
shall cease to be effective. 69011

Section 146.01. Except as otherwise specifically provided in 69012
this act, the codified sections of law amended or enacted in this 69013
act, and the items of law of which the codified sections of law 69014
amended or enacted in this act are composed, are subject to the 69015
referendum. Therefore, under Ohio Constitution, Article II, 69016
Section 1c and section 1.471 of the Revised Code, the codified 69017
sections of law amended or enacted by this act, and the items of 69018
law of which the codified sections of law as amended or enacted by 69019
this act are composed, take effect on the ninety-first day after 69020
this act is filed with the Secretary of State. If, however, a 69021

referendum petition is filed against any such codified section of 69022
law as amended or enacted by this act, or against any item of law 69023
of which any such codified section of law as amended or enacted by 69024
this act is composed, the codified section of law as amended or 69025
enacted, or item of law, unless rejected at the referendum, takes 69026
effect at the earliest time permitted by law. 69027

Section 146.02. Except as otherwise specifically provided in 69028
this act, the repeal by this act of a codified section of law is 69029
subject to the referendum. Therefore, under Ohio Constitution, 69030
Article II, Section 1c and section 1.471 of the Revised Code, the 69031
repeal by this act of a codified section of law takes effect on 69032
the ninety-first day after this act is filed with the Secretary of 69033
State. If, however, a referendum petition is filed against any 69034
such repeal, the repeal, unless rejected at the referendum, takes 69035
effect at the earliest time permitted by law. 69036

Section 146.03. The repeal by this act of sections 122.12, 69037
173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 69038
173.53, 173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 1553.01, 69039
1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 69040
1553.09, 1553.10, 1553.99, 3301.581, 3302.041, 3313.481, 3313.482, 69041
3317.11, 3318.35, 3318.351, 3701.142, 3701.144, 4141.044, 69042
5115.011, 5115.012, 5115.06, and 5115.061 of the Revised Code is 69043
not subject to the referendum. Therefore, under Ohio Constitution, 69044
Article II, Section 1d and section 1.471 of the Revised Code, the 69045
repeals go into immediate effect when this act becomes law. 69046

Section 146.04. The repeal by this act of sections 4725.40, 69047
4725.41, 4725.42, 4725.43, 4725.44, 4725.45, 4725.46, 4725.47, 69048
4725.48, 4725.49, 4725.50, 4725.51, 4725.52, 4725.53, 4725.531, 69049
4725.54, 4725.55, 4725.56, 4725.57, 4725.58, and 4725.59 of the 69050
Revised Code is not subject to the referendum under Ohio 69051

Constitution, Article II, Section 1d and section 1.471 of the 69052
Revised Code and goes into effect on July 31, 2003. 69053

Section 146.05. (A) Sections 117.45, 121.04, 122.658, 124.03, 69054
126.11, 127.16, 131.23, 163.06, 173.08, 307.202, 323.01, 329.03, 69055
329.04, 329.051, 340.021, 340.03, 505.69, 717.01, 901.21, 1501.04, 69056
2101.16, 2151.011, 2151.3529, 2151.3530, 2305.234, 2329.66, 69057
2715.041, 2715.045, 2716.13, 2921.13, 3111.04, 3119.01, 3123.952, 69058
new 3301.33, 3301.33 (3301.40), 3301.34, 3301.35, 3301.36, 69059
3301.37, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 69060
3311.52, 3313.48, new 3313.481, 3313.533, 3313.62, 3313.647, 69061
3313.90, 3313.979, 3314.083, 3316.08, 3317.012, 3317.013, 3317.02, 69062
3317.0217, 3317.022, 3317.023, 3317.024, 3317.029, 3317.03, 69063
3317.032, 3317.034, 3317.05, 3317.064, 3317.07, 3317.081, 3317.10, 69064
new 3317.11, 3317.16, 3318.37, 3319.227, 3319.302, 3323.12, 69065
3323.16, 3332.04, 3365.04, 3517.092, 3701.021, 3701.022, 3701.029, 69066
3701.141, 3701.145 (3701.0210), 3702.31, 3702.63, 3702.68, 69067
3702.74, 3705.24, 3709.09, 3711.021, 3721.02, 3721.19, 3733.43, 69068
3733.45, 3734.28, 3734.57, 3745.40, 3748.07, 3748.13, 3773.43, 69069
3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 69070
4104.15, 4104.18, 4104.19, 4104.20, 4105.17, 4112.15, 4117.10, 69071
4117.14, 4123.27, 4141.09, 4511.75, 4723.06, 4723.08, 4723.082, 69072
4723.17, 4731.65, 4731.71, 4736.12, 4747.05, 4747.06, 4747.07, 69073
4747.10, 4771.22, 4903.24, 4905.91, 4919.79, 4981.01 (5507.01), 69074
4981.03 (5507.03), 4981.031 (5507.031), 4981.032 (5507.032), 69075
4981.033 (5507.033), 4981.04 (5507.04), 4981.05 (5507.05), 4981.06 69076
(5507.06), 4981.07 (5507.07), 4981.08 (5507.08), 4981.09 69077
(5507.09), 4981.091 (5507.091), 4981.10 (5507.10), 4981.11 69078
(5507.11), 4981.12 (5507.12), 4981.13 (5507.13), 4981.131 69079
(5507.131), 4981.14 (5507.14), 4981.15 (5507.15), 4981.16 69080
(5507.16), 4981.17 (5507.17), 4981.18 (5507.18), 4981.19 69081
(5507.19), 4981.21 (5507.21), 4981.22 (5507.22), 4981.23 69082
(5507.23), 4981.25 (5507.25), 4981.26 (5507.26), 4981.28 69083

(5507.28), 4981.29 (5507.29), 4981.30 (5507.30), 4981.31 69084
(5507.31), 4981.32 (5507.32), 4981.33 (5507.33), 4981.34 69085
(5507.34), 4981.35 (5507.35), 4981.36 (5507.36), 4981.361 69086
(5507.361), 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 69087
5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 5101.181, 69088
5101.214, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5103.155, 69089
5104.01, 5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 69090
5107.40, 5107.60, 5111.0113, 5111.02, 5111.025, 5111.03, 5111.06, 69091
5111.08 (5111.071), new 5111.16, 5111.16 (5111.08), 5111.17, 69092
5111.171, 5111.172, 5111.174, 5111.175, 5111.20, 5111.206, 69093
5111.21, 5111.22, 5111.222, 5111.25, 5111.252 (5123.199), 5111.28, 69094
5111.29, 5111.30, 5111.31, 5111.65, 5111.66, 5111.661, 5111.67, 69095
5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 69096
5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 69097
5111.685, 5111.686, 5111.687, 5111.688, 5111.689, 5111.6810, 69098
5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.911, 69099
5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 69100
(5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 69101
5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 69102
5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 69103
5123.19, 5123.196, 5123.197, 5123.198, 5123.1910, 5123.38, 69104
5126.01, 5126.042, 5126.12, 5153.78, 5501.03, 5502.13, 5519.01, 69105
5705.19, 5709.64, 5735.05, 5735.053, 5735.23, 5735.26, 5735.291, 69106
5735.30, and 6109.21 of the Revised Code as amended or enacted by 69107
this act, and the items of law of which such sections as amended 69108
or enacted by this act are composed, are not subject to the 69109
referendum. Therefore, under Ohio Constitution, Article II, 69110
Section 1d and section 1.471 of the Revised Code, such sections as 69111
amended or enacted by this act, and the items of law of which such 69112
sections as amended or enacted by this act are composed, go into 69113
immediate effect when this act becomes law. 69114

(B) The amendment of sections 4725.01, 4725.02, 4725.03, 69115
4725.04, 4725.05, 4725.06, 4725.07, 4725.08, 4725.09, 4725.10, 69116

4725.11, 4725.12, 4725.13, 4725.15, 4725.16, 4725.17, 4725.171, 69117
4725.18, 4725.19, 4725.20, 4725.21, 4725.22, 4725.23, 4725.24, 69118
4725.26, 4725.27, 4725.28, 4725.29, 4725.31, 4725.33, 4725.34, 69119
4725.99, 4734.99, and 5903.12 of the Revised Code is not subject 69120
to the referendum under Ohio Constitution, Article II, Section 1d 69121
and section 1.471 of the Revised Code and goes into effect on July 69122
31, 2003. 69123

(C) Sections 3301.31, 5111.173, 5111.221, 5111.24, 5111.241, 69124
5111.251, 5111.255, 5111.257, 5111.261, 5111.262, and 5111.264 of 69125
the Revised Code as repealed and reenacted by this act, and the 69126
items of law of which they are composed, are not subject to the 69127
referendum. Therefore, under Ohio Constitution, Article II, 69128
Section 1d and section 1.471 of the Revised Code, such sections as 69129
repealed and reenacted by this act go into immediate effect when 69130
this act becomes law. 69131

Section 146.06. The amendment, enactment, or repeal and 69132
reenactment by this act of sections 715.013, 718.01, 718.02, 69133
718.021, 718.03, 718.031, 718.05, 718.051, 718.11, 718.121, 69134
5717.011, 5717.03, 5727.111, 5727.30, 5733.04, 5733.05, 5733.056, 69135
5733.09, 5733.55, 5733.56, 5733.57, 5733.98, 5745.01, 5745.02, 69136
5745.04, 5745.042, 5745.044, and 5747.026 of the Revised Code 69137
provides for or is essential to implementation of a tax levy. 69138
Therefore, under Ohio Constitution, Article II, Section 1d, the 69139
amendments, enactments, or repeals and reenactments and the items 69140
of which they are composed, are not subject to the referendum and 69141
go into immediate effect when this act becomes law. 69142

Section 146.07. (A) The amendment by this act of sections 69143
4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the 69144
Revised Code provides for or is essential to implementation of a 69145
tax levy. Therefore, under Ohio Constitution, Article II, Section 69146
1d, the amendments, and the items of which they are composed, are 69147

not subject to the referendum and go into effect December 31, 69148
2004. 69149

(B) The repeal by this act of sections 5727.39 and 5727.44 of 69150
the Revised Code provide for or is essential to implementation of 69151
a tax levy. Therefore, under Ohio Constitution, Article II, 69152
Section 1d, the repeals, and the items of which they are composed, 69153
are not subject to the referendum and go into effect December 31, 69154
2004. 69155

Section 146.08. The amendment by this act of sections 69156
5739.01, 5739.011, 5739.02, 5739.12, and 5741.02 of the Revised 69157
Code provides for or is essential to implementation of a tax levy. 69158
Therefore, under Ohio Constitution, Article II, Section 1d, the 69159
amendments, and the items of which they are composed, are not 69160
subject to the referendum and go into immediate effect when this 69161
act becomes law. 69162

Section 146.09. (A) Except as otherwise provided by this act, 69163
the amendments to section 125.22 of the Revised Code are not 69164
subject to the referendum under Ohio Constitution, Article II, 69165
Section 1d and section 1.471 of the Revised Code and go into 69166
effect on July 31, 2003. 69167

(B) The amendment by this act to section 125.22 of the 69168
Revised Code that removes the Ohio Commission on African-American 69169
Males from the list of boards and commissions for which the 69170
Central Service Agency of the Department of Administrative 69171
Services performs routine support is subject to the referendum. 69172
Therefore, under Ohio Constitution, Article II, Section 1c and 69173
section 1.471 of the Revised Code, the amendment takes effect on 69174
the ninety-first day after this act is filed with the Secretary of 69175
State. If, however, a referendum petition is filed against the 69176
amendment, or against any item of law it contains, the amendment 69177

or item, unless rejected at the referendum, takes effect at the 69178
earliest time permitted by law. 69179

Section 146.10. Section 3313.981 of the Revised Code, as 69180
amended by this act, and the items of law of which that section as 69181
amended by this act is composed, are not subject to the 69182
referendum. Therefore, under Ohio Constitution, Article II, 69183
Section 1d and section 1.471 of the Revised Code, that section as 69184
amended by this act, and the items of law of which that section as 69185
amended by this act is composed, are entitled to go into immediate 69186
effect when this act becomes law. However, that section as amended 69187
by this act, and the items of law of which that section as amended 69188
by this act is composed, take effect on July 1, 2004, or the day 69189
this act becomes law, whichever is later. 69190

Section 146.11. (A) The amendments by this act of section 69191
3317.01 of the Revised Code are not subject to the referendum. 69192
Therefore, under Ohio Constitution, Article II, Section 1d and 69193
section 1.471 of the Revised Code, the section as amended, and the 69194
items of law of which that section as amended is composed, go into 69195
immediate effect when this act becomes law, except as provided in 69196
division (B) of this section. 69197

(B) The amendments by this act to division (B) of section 69198
3317.01 of the Revised Code take effect July 1, 2004. 69199

Section 146.12. The version of section 3332.04 of the Revised 69200
Code that is scheduled to take effect July 1, 2003, as amended by 69201
this act, and the items of law of which that section as amended is 69202
composed, are not subject to the referendum. Therefore, under Ohio 69203
Constitution, Article II, Section 1d and section 1.471 of the 69204
Revised Code, the section as amended by this act, and the items of 69205
law of which that section as amended is composed, go into 69206
immediate effect on July 1, 2003. 69207

Section 146.13. (A) Except as otherwise provided in division 69208
(B) of this section, the amendments by this act to section 3745.11 69209
of the Revised Code are not subject to the referendum. Therefore, 69210
under Ohio Constitution, Article II, Section 1d and section 1.471 69211
of the Revised Code, the amendments, and the items of law they 69212
contain, go into immediate effect when this act becomes law. 69213

(B) The seventh and last paragraph added to division (S)(1) 69214
of section 3745.11 of the Revised Code by this act is subject to 69215
the referendum. Therefore, under Ohio Constitution, Article II, 69216
Section 1c and section 1.471 of the Revised Code, the paragraph 69217
takes effect on the ninety-first day after this act is filed with 69218
the Secretary of State. If, however, a referendum petition is 69219
filed against the paragraph, or against any item of law it 69220
contains, the paragraph or item, unless rejected at the 69221
referendum, takes effect at the earliest time permitted by law. 69222

Section 146.14. The version of section 4511.75 of the Revised 69223
Code that is scheduled to take effect January 1, 2004, as amended 69224
by this act, and the items of law of which that section as amended 69225
is composed, are not subject to the referendum. Therefore, under 69226
Ohio Constitution, Article II, Section 1d and section 1.471 of the 69227
Revised Code, the section as amended by this act, and the items of 69228
law of which that section as amended is composed, go into 69229
immediate effect on January 1, 2004. 69230

Section 146.15. (A) Except as otherwise provided in division 69231
(B) of this section, the amendments by this act to section 4743.05 69232
of the Revised Code are subject to the referendum. Therefore, 69233
under Ohio Constitution, Article II, Section 1c and section 1.471 69234
of the Revised Code, the amendments take effect on the 69235
ninety-first day after this act is filed with the Secretary of 69236
State. If, however, a referendum petition is filed against the 69237

amendments, or against any item of law they contain, the 69238
amendments or item, unless rejected at the referendum, takes 69239
effect at the earliest time permitted by law. 69240

(B) The amendment by this act adding a reference to "4771." 69241
to section 4743.05 of the Revised Code is not subject to the 69242
referendum. Therefore, under Ohio Constitution, Article II, 69243
Section 1d and section 1.471 of the Revised Code, the amendment 69244
goes into immediate effect when this act becomes law. 69245

Section 146.16. (A) Except as otherwise provided in division 69246
(B) of this section, the amendments by this act to section 69247
5111.022 of the Revised Code are not subject to the referendum. 69248
Therefore, under Ohio Constitution, Article II, Section 1d and 69249
section 1.471 of the Revised Code, the amendments, and the items 69250
of law they contain, go into immediate effect when this act 69251
becomes law. 69252

(B) The amendments by this act adding divisions (B)(4), (E), 69253
and (F) to section 5111.022 of the Revised Code are subject to the 69254
referendum. Therefore, under Ohio Constitution, Article II, 69255
Section 1c and section 1.471 of the Revised Code, the amendments 69256
take effect on the ninety-first day after this act is filed with 69257
the Secretary of State. If, however, a referendum petition is 69258
filed against the amendments, or against any item of law they 69259
contain, the amendments or item, unless rejected at the 69260
referendum, takes effect at the earliest time permitted by law. 69261

Section 146.17. Section 5112.31 of the Revised Code, as 69262
amended by this act, and the items of law of which that section as 69263
amended is composed, are not subject to the referendum. Therefore, 69264
under Ohio Constitution, Article II, Section 1d and section 1.471 69265
of the Revised Code, that section as amended by this act, and the 69266
items of law of which that section as amended is composed, are 69267

entitled to go into immediate effect when this act becomes law. 69268
However, that section as amended by this act, and the items of law 69269
which that section as amended by this act are composed, take 69270
effect on July 1, 2003, or the day this act becomes law, whichever 69271
is later. 69272

Section 146.18. (A) Except as otherwise provided in division 69273
(B) of this section, the amendments by this act to section 4981.20 69274
(5507.20) of the Revised Code are not subject to the referendum. 69275
Therefore, under Ohio Constitution, Article II, Section 1d and 69276
section 1.471 of the Revised Code, the amendments, and the items 69277
of law they contain, go into immediate effect when this act 69278
becomes law. 69279

(B) The amendment by this act to the second and last sentence 69280
of the second paragraph of division (A) of section 4981.20 69281
(5507.20) of the Revised Code provides for or is essential to 69282
implementation of a tax levy. Therefore, under Ohio Constitution, 69283
Article II, Section 1d, the amendment is not subject to the 69284
referendum and goes into immediate effect when this act becomes 69285
law. 69286

Section 146.19. * Sections 125.831, 125.832, 125.833, and 69287
125.834 of the Revised Code, as enacted or repealed and re-enacted 69288
by this act, shall take effect September 1, 2003. 69289

Section 146.20. * Section 102.02 of the Revised Code, as 69290
amended by this act, shall take effect January 1, 2004. 69291

Section 146.21. * Section 4759.08 of the Revised Code, as 69292
amended by this act, shall take effect July 1, 2004. 69293

Section 146.22. * Sections 5103.031, 5103.033, 5103.034, 69294
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 69295

5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised Code, as amended by this act, shall take effect on January 1, 2004.

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Section 146.23. * Sections 5103.154 and 5153.163 of the Revised Code as amended by this act take effect July 1, 2004.

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Section 146.24. * Section 5112.31 of the Revised Code, as amended by this act, shall take effect July 1, 2003.

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Section 146.25. Except as otherwise specifically provided in this act, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, go into immediate effect when this act becomes law.

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Section 146.26. Uncodified sections of law amended or enacted in this act, and items of law contained within the uncodified sections of law amended or enacted in this act, that are marked with an asterisk are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the uncodified sections and items of law marked with an asterisk 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 an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

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If the amending and existing repeal clauses commanding the amendment of an uncodified section of law are both marked with asterisks, the uncodified section as amended is deemed also to have been marked with an asterisk.

An asterisk marking an uncodified section or item of law has the form *.

This section defines the meaning and form of, but is not itself to be considered marked with, an asterisk.

Section 146.27. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to Section 27 of Sub. H.B. 670 of the 121st General Assembly are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect when this act becomes law.

(B) The amendments by this act removing references to the Hazardous Waste Facility Board and to the Reclamation Commission from Section 27 of Sub. H.B. 670 of the 121st General Assembly are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

Section 146.28. The repeal by this act of the following uncodified sections of law is not subject to the referendum and therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, goes into immediate effect when this act becomes law:

(A) Section 11 of Am. Sub. S.B. 50 of the 121st General

Assembly;	69355
(B) Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly.	69356 69357
Section 146.29. If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment.	69358 69359 69360 69361 69362 69363 69364 69365 69366 69367 69368
Section 146.30. * The amendment of Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 123rd General Assembly, and its renumbering as section 3318.364 of the Revised Code by this act are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the section as amended and renumbered, and the items of law of which the section as amended and renumbered 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 the section as amended and renumbered, or against any item of law of which the section as amended and renumbered is composed, the section as amended and renumbered, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.	69369 69370 69371 69372 69373 69374 69375 69376 69377 69378 69379 69380 69381 69382 69383
Section 147.01. * The amendment of section 122.25 of the	69384

Revised Code by this act is not intended to supersede the earlier 69385
repeal, with delayed effective date, of that section. 69386

Section 147.02. * Section 921.151 was amended and renumbered 69387
as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 69388
124th General Assembly, passed November 21, 2002, and effective 69389
July 1, 2004. The amendment of section 921.151 of the Revised Code 69390
in Section 1 of this act does not supersede that earlier amendment 69391
and renumbering. This act therefore amends both sections to ensure 69392
that its amendments continue on and after July 1, 2004. 69393

Section 147.03. The amendment by this act of sections 5112.03 69394
and 5112.08 of the Revised Code is not intended to supersede the 69395
earlier repeal, with delayed effective date, of those sections. 69396
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Section 147.04. The amendment by this act of section 5112.99 69398
of the Revised Code is not intended to supersede the earlier 69399
repeal, with delayed effective date, of that section. 69400

Section 148.01. * Section 109.572 of the Revised Code is 69401
presented in this act as a composite of the section as amended by 69402
both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General 69403
Assembly. The General Assembly, applying the principle stated in 69404
division (B) of section 1.52 of the Revised Code that amendments 69405
are to be harmonized if reasonably capable of simultaneous 69406
operation, finds that the composite is the resulting version of 69407
the section in effect prior to the effective date of the section 69408
as presented in this act. 69409

Section 148.02. Section 121.04 of the Revised Code is 69410
presented in this act as a composite of the section as amended by 69411
both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General 69412

Assembly. The General Assembly, applying the principle stated in 69413
division (B) of section 1.52 of the Revised Code that amendments 69414
are to be harmonized if reasonably capable of simultaneous 69415
operation, finds that the composite is the resulting version of 69416
the section in effect prior to the effective date of the section 69417
as presented in this act. 69418

Section 148.03. * The version of section 2305.234 of the 69419
Revised Code that is scheduled to take effect January 1, 2004, is 69420
presented in this act as a composite of the section as amended by 69421
both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General 69422
Assembly. The General Assembly, applying the principle stated in 69423
division (B) of section 1.52 of the Revised Code that amendments 69424
are to be harmonized if reasonably capable of simultaneous 69425
operation, finds that the composite is the resulting version of 69426
the section in effect prior to the effective date of the section 69427
as presented in this act. 69428

Section 148.04. Section 2743.02 of the Revised Code is 69429
presented in this act as a composite of the section as amended by 69430
both Am. Sub. S.B. 115 and Am. Sub. S.B. 281 of the 124th General 69431
Assembly. The General Assembly, applying the principle stated in 69432
division (B) of section 1.52 of the Revised Code that amendments 69433
are to be harmonized if reasonably capable of simultaneous 69434
operation, finds that the composite is the resulting version of 69435
the section in effect prior to the effective date of the section 69436
as presented in this act. 69437

Section 148.05. Section 3314.03 of the Revised Code is 69438
presented in this act as a composite of the section as amended by 69439
both Sub. H.B. 248 and Sub. H.B. 364 of the 124th General 69440
Assembly. The General Assembly, applying the principle stated in 69441
division (B) of section 1.52 of the Revised Code that amendments 69442

are to be harmonized if reasonably capable of simultaneous 69443
operation, finds that the composite is the resulting version of 69444
the section in effect prior to the effective date of the section 69445
as presented in this act. 69446

Section 148.06. Section 3317.012 of the Revised Code is 69447
presented in this act as a composite of the section as amended by 69448
both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General 69449
Assembly. The General Assembly, applying the principle stated in 69450
division (B) of section 1.52 of the Revised Code that amendments 69451
are to be harmonized if reasonably capable of simultaneous 69452
operation, finds that the composite is the resulting version of 69453
the section in effect prior to the effective date of the section 69454
as presented in this act. 69455

Section 148.07. Section 3319.07 of the Revised Code is 69456
presented in this act as a composite of the section as amended by 69457
both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General 69458
Assembly. The General Assembly, applying the principle stated in 69459
division (B) of section 1.52 of the Revised Code that amendments 69460
are to be harmonized if reasonably capable of simultaneous 69461
operation, finds that the composite is the resulting version of 69462
the section in effect prior to the effective date of the section 69463
as presented in this act. 69464

Section 148.08. Section 3319.36 of the Revised Code is 69465
presented in this act as a composite of the section as amended by 69466
both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General 69467
Assembly. The General Assembly, applying the principle stated in 69468
division (B) of section 1.52 of the Revised Code that amendments 69469
are to be harmonized if reasonably capable of simultaneous 69470
operation, finds that the composite is the resulting version of 69471
the section in effect prior to the effective date of the section 69472

as presented in this act. 69473

Section 148.09. Section 4725.114 (4725.33) of the Revised 69474
Code is presented in this act as a composite of the section as 69475
amended by both Am. Sub. H.B. 553 and Sub. H.B. 698 of the 122nd 69476
General Assembly. The General Assembly, applying the principle 69477
stated in division (B) of section 1.52 of the Revised Code that 69478
amendments are to be harmonized if reasonably capable of 69479
simultaneous operation, finds that the composite is the resulting 69480
version of the section in effect prior to the effective date of 69481
the section as presented in this act. 69482

Section 148.10. * Section 4503.234 of the Revised Code is 69483
presented in Section 1 of this act as a composite of the section 69484
as amended by both Am. Sub. H.B. 353 and Am. Sub. H.B. 676 of the 69485
121st General Assembly. The General Assembly, applying the 69486
principle stated in division (B) of section 1.52 of the Revised 69487
Code that amendments are to be harmonized if reasonably capable of 69488
simultaneous operation, finds that the composite is the resulting 69489
version of the section in effect prior to the effective date of 69490
the section as presented in this act. 69491

Section 148.11. * Section 4973.17 of the Revised Code is 69492
presented in this act as a composite of the section as amended by 69493
both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General 69494
Assembly. The General Assembly, applying the principle stated in 69495
division (B) of section 1.52 of the Revised Code that amendments 69496
are to be harmonized if reasonably capable of simultaneous 69497
operation, finds that the composite is the resulting version of 69498
the section in effect prior to the effective date of the section 69499
as presented in this act. 69500

Section 148.12. Section 5111.20 of the Revised Code is 69501

presented in this act as a composite of the section as amended by 69502
both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General 69503
Assembly. The General Assembly, applying the principle stated in 69504
division (B) of section 1.52 of the Revised Code that amendments 69505
are to be harmonized if reasonably capable of simultaneous 69506
operation, finds that the composite is the resulting version of 69507
the section in effect prior to the effective date of the section 69508
as presented in this act. 69509

Section 148.13. Section 5115.01 of the Revised Code is 69510
presented in this act as a composite of the section as amended by 69511
both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. 69512
The General Assembly, applying the principle stated in division 69513
(B) of section 1.52 of the Revised Code that amendments are to be 69514
harmonized if reasonably capable of simultaneous operation, finds 69515
that the composite is the resulting version of the section in 69516
effect prior to the effective date of the section as presented in 69517
this act. 69518

Section 148.14. * Section 5709.62 of the Revised Code is 69519
presented in this act as a composite of the section as amended by 69520
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 69521
Assembly. The General Assembly, applying the principle stated in 69522
division (B) of section 1.52 of the Revised Code that amendments 69523
are to be harmonized if reasonably capable of simultaneous 69524
operation, finds that the composite is the resulting version of 69525
the section in effect prior to the effective date of the section 69526
as presented in this act. 69527

Section 148.15. * Section 5709.63 of the Revised Code is 69528
presented in this act as a composite of the section as amended by 69529
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 69530
Assembly. The General Assembly, applying the principle stated in 69531

division (B) of section 1.52 of the Revised Code that amendments 69532
are to be harmonized if reasonably capable of simultaneous 69533
operation, finds that the composite is the resulting version of 69534
the section in effect prior to the effective date of the section 69535
as presented in this act. 69536

Section 148.16. Section 5733.04 of the Revised Code is 69537
presented in this act as a composite of the section as amended by 69538
both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General 69539
Assembly. The General Assembly, applying the principle stated in 69540
division (B) of section 1.52 of the Revised Code that amendments 69541
are to be harmonized if reasonably capable of simultaneous 69542
operation, finds that the composite is the resulting version of 69543
the section in effect prior to the effective date of the section 69544
as presented in this act. 69545

Section 148.17. Section 5735.05 of the Revised Code is 69546
presented in this act as a composite of the section as amended by 69547
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 69548
The General Assembly, applying the principle stated in division 69549
(B) of section 1.52 of the Revised Code that amendments are to be 69550
harmonized if reasonably capable of simultaneous operation, finds 69551
that the composite is the resulting version of the section in 69552
effect prior to the effective date of the section as presented in 69553
this act. 69554

Section 148.18. Section 5735.23 of the Revised Code is 69555
presented in this act as a composite of the section as amended by 69556
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 69557
The General Assembly, applying the principle stated in division 69558
(B) of section 1.52 of the Revised Code that amendments are to be 69559
harmonized if reasonably capable of simultaneous operation, finds 69560
that the composite is the resulting version of the section in 69561

effect prior to the effective date of the section as presented in 69562
this act. 69563

Section 148.19. Section 5739.01 of the Revised Code was 69564
amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 69565
200, all of the 124th General Assembly. Comparison of these 69566
amendments in pursuance of section 1.52 of the Revised Code 69567
discloses that while certain of the amendments of these acts are 69568
reconcilable, certain other of the amendments are substantively 69569
irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; 69570
Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 69571
was passed on March 13, 2002. Section 5739.01 of the Revised Code 69572
is therefore presented in this act as it results from Am. Sub. 69573
H.B. 524 and Sub. S.B. 200 and such of the amendments of Am. Sub. 69574
S.B. 143 as are not in conflict with the amendments of Sub. S.B. 69575
200. The General Assembly, applying the principle stated in 69576
division (B) of section 1.52 of the Revised Code that amendments 69577
are to be harmonized if reasonably capable of simultaneous 69578
operation, finds that the composite is the resulting version of 69579
the section in effect prior to the effective date of the section 69580
as presented in this act. 69581

Section 149. If any item of law that constitutes the whole or 69582
part of a codified or uncodified section of law contained in this 69583
act, or if any application of any item of law that constitutes the 69584
whole or part of a codified or uncodified section of law contained 69585
in this act, is held invalid, the invalidity does not affect other 69586
items of law or applications of items of law that can be given 69587
effect without the invalid item of law or application. To this 69588
end, the items of law of which the codified and uncodified 69589
sections contained in this act are composed, and their 69590
applications, are independent and severable. 69591